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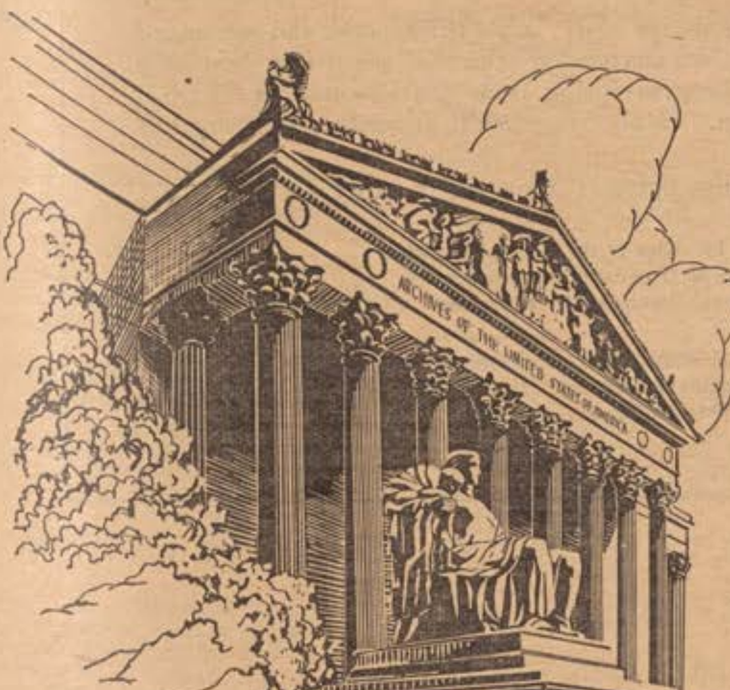
PART I



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FEDERAL REGISTER

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List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1965, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service, (Agricultural Adjustment), Department of Agriculture

[Amdt. 15]

PART 722—COTTON

Subpart—Acreage Allotment Regulations for 1964 and Succeeding Crops of Upland Cotton

MISCELLANEOUS AMENDMENTS

(a) This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This amendment provides certain limitations on the amount of released acreage which may be reapportioned to farms beginning with the 1965 crop under section 344(m)(2) of the Act. It also establishes the closing date for filing applications for transfer of allotments for the 1965 and succeeding crops under section 344 (n) of the Act.

(b) Since the State and county ASC committees will be required to implement the provisions regarding limitation of reapportioned acreage and to establish the respective closing dates, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing this document with the Director, Office of the Federal Register.

The Acreage Allotment Regulations for the 1964 and Succeeding Crops of Upland Cotton (28 F.R. 11041, as amended) are amended as follows:

1. Subparagraphs (3), (4), (5), (6) and (7) of paragraph (b), and paragraph (c) of § 722.213 of the regulations are deleted and the following added after subparagraph (2) of paragraph (b) thereof:

§ 722.213 Release and reapportionment of cotton allotments.

* * * * *

(b) *Allotments which may be released and reapportioned.* * * *

(3) *Application for reapportioned allotment.* A written request by the farm operator or owner shall be filed with the county committee by the applicable closing date as a condition of eligibility for consideration by the county committee to have released acreage reapportioned to the farm. In any case where an oral request by the farm operator or owner is made to the county committee by the applicable closing date and the county committee finds that the applicant was prevented by conditions beyond his control from timely filing a written request, such oral request may be considered as timely filed upon filing of a written request within a reasonable period after the closing date.

(4) *Standards and guidelines for reapportionment.* The State committee shall establish standards and guidelines to assure uniform application of the basic factors of past acreages of cotton, land, labor and equipment available for the production of cotton; crop rotation practices; and soil and other physical facilities affecting the production of cotton required to be considered under section 344(m)(2) of the Act in the reapportionment of released allotments to farms. Such standards and guidelines shall include the following limitations which apply to all States:

(i) The farm allotment for any farm to which released allotment is reapportioned shall not exceed the larger of 33.0 acres or 75 percent of the cropland for the farm, but in no event shall such farm allotment exceed the cropland for the farm.

(ii) The sum of the allotments reapportioned to all farms in the county owned, operated or controlled by a member of the community committee or county committee, or an employee of the county committee for which applications are filed under subparagraph (3) of this paragraph, shall not be a higher percentage of the total acreage reapportioned to all farms in the county than the percentage of farm allotments before reapportionment on farms so owned, operated or controlled is to the total of the farm allotments before reapportionment on all farms receiving reapportioned acreage.

(5) *Reapportionment by county committee.* Released allotments shall be reapportioned by the county committee not later than the applicable closing date to other farms receiving farm allotments in the same county for which timely application is filed in amounts determined by the county committee to be fair and reasonable pursuant to the applicable standards and guidelines under subparagraph (4) of this paragraph: *Provided,* That any allotment released from a farm which is covered in whole or in part by a contract under the conservation programs or for which an application for such contract is pending, shall not be reapportioned by the county committee to any other farm or surrendered to the State committee for reapportionment to other counties.

(6) *Surrender of released acreage to the State committee.* If all of the released acreage in a county is not needed, the county committee may surrender, except for released acreage from pooled acreage allotments or acreage released from conservation program farms, the unused released acreage to the State committee for reapportionment to counties. The State committee shall reapportion such surrender acreage to counties on the basis of trends in acreage, abnormal conditions adversely affecting plantings or for small or new farms or to correct inequities in farm allotments and to prevent hardships. Such surrendered acreage shall be reapportioned by the receiving county committee subject to the provisions of subparagraphs (3), (4), and (5) of this paragraph.

(7) *Closing dates.* The State committee shall establish the following closing dates for the entire State or for areas consisting of one or more counties in the State taking into consideration the normal planting dates within the State. In establishing closing dates, the State committee shall also take into consideration the time required for reapportionment of surrendered acreage to counties and farms.

(i) The closing date for release of allotments which shall be no later than the date on which planting of cotton normally becomes general on farms in the State, area, or county, except that for any farm for which an agreement to participate in the 1965 farm domestic allotment program has been filed, such closing date for the 1965 crop shall be no later than March 26, 1965.

(ii) The closing date for requests for reapportionment of allotments which shall be a date from the closing date for release of allotments to the closing date for reapportionment of allotments, both dates inclusive, but no later than April 15 of the current year.

(iii) The closing date for reapportionment of allotments to other farms which shall be no later than the latest date on which cotton can normally be planted on farms in the State, area, or county with reasonable expectation of producing an average crop.

(8) *Acreage history.* For the purpose of determining future State and county allotments, released allotments will be credited to the State and county in which such allotments were released. In determining future farm allotments, the planting in the current year of reapportioned allotments shall not be considered. Any farm allotment released for the current year only, shall, in determining future farm cotton allotments, be regarded as having been planted on the farm from which such allotment was released if cotton was planted or regarded as planted on such farm under the conservation programs in at least one of the two years preceding the current year.

(9) *Public notice.* The county committee shall post in the county office the applicable closing dates and the amount of released allotments available in the county for reapportionment and to the extent practicable, such information shall be given general publicity in the county.

2. Paragraph (g) of § 722.226 of the regulations is amended as follows:

§ 722.226 Transfer of farm cotton acreage affected by a natural disaster.

* * * * *

(g) *Closing dates*—(1) *1964 crop.* The closing date for approval of 1964 transfers by the county committee shall be June 10, 1964.

(2) *1965 and succeeding crops.* The closing date for filing applications for transfers with the county committee for the 1965 and succeeding crops shall be the tenth of June of the current year.

* * * * *

(Sec. 344, 375, 63 Stat. 670, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on February 9, 1965.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65-1591; Filed, Feb. 12, 1965; 8:48 a.m.]

[Amdt. 5]

PART 722—COTTON

Subpart—Acreage Allotment Regulations for 1964 and Succeeding Crops of Extra Long Staple Cotton

REAPPORTIONMENT OF RELEASED ALLOTMENTS

(a) This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This amendment provides certain limitations on the amount of released acreage which may be reapportioned to farms beginning with the 1965 crop under section 344(m)(2) of the Act.

(b) Since the State and county ASC committees will be required to implement the provisions regarding limitation of reapportioned acreage and to establish the respective closing dates, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing this document with the Director, Office of the Federal Register.

Subparagraphs (3), (4), (5), (6) and (7) of paragraph (b), and paragraph (c) of § 722.313 of the Acreage Allotment Regulations for the 1964 and Succeeding Corps of Extra Long Staple Cotton (28 F.R. 11034, as amended) are deleted and the following added after subparagraph (2) of paragraph (b) thereof:

§ 722.313 Release and reapportionment of ELS cotton allotments.

* * * * *

(b) *Allotments which may be released and reapportioned.* * * *

(3) *Application for reapportioned allotment.* A written request by the farm operator or owner shall be filed with the county committee by the applicable closing date as a condition of eligibility for consideration by the county committee to have released acreage reapportioned to the farm. In any case where an oral request by the farm operator or owner is made to the county committee by the applicable closing date and the county committee finds that the applicant was prevented by conditions beyond his control from timely filing a written request, such oral request may be considered as timely filed upon filing of a written request within a reasonable period after the closing date.

(4) *Standards and guidelines for reapportionment.* The State committee shall establish standards and guidelines to assure uniform application of the basic factors of past acreages of ELS cotton, land, labor and equipment available for the production of ELS cotton; crop rotation practices; and soil and other physical facilities affecting the production of cotton required to be considered under section 344(m)(2) of the act in the reapportionment of released allotments to farms. Such standards and guidelines shall include the following limitations which apply to all States:

(i) The farm allotment for any farm to which released allotment is reapportioned shall not exceed the larger of 33.0 acres or 75 percent of the cropland for the farm, but in no event shall such farm allotment exceed the cropland for the farm.

(ii) The sum of the allotments reapportioned to all farms in the county owned, operated or controlled by a member of the community committee or county committee, or an employee of the county committee for which applications are filed under subparagraph (3) of this paragraph, shall not be a higher percentage of the total acreage reapportioned to all farms in the county than the percentage of farm allotments before reapportionment on farms so owned, operated or controlled is to the total of the farm allotments before reapportionment on all farms receiving reapportioned acreage.

(5) *Reapportionment by county committee.* Released allotments shall be reapportioned by the county committee not later than the applicable closing date to other farms receiving farm allotments in the same county for which timely application is filed in amounts determined by the county committee to be fair and reasonable pursuant to the applicable standards and guidelines under subparagraph (4) of this paragraph: *Provided,* That any allotment released from a farm which is covered in whole or in part by a contract under the conservation programs or for which an application for such contract is pending, shall not be reapportioned by the county committee to any other farm or surrendered to the State committee for reapportionment to other counties.

(6) *Surrender of released acreage to the State committee.* If all of the released acreage in a county is not needed, the county committee may surrender, except for released acreage from pooled acreage allotments or acreage released from conservation program farms, the unused released acreage to the State committee for reapportionment to counties. The State committee shall reapportion such surrendered acreage to counties on the basis of trends in acreage, abnormal conditions adversely affecting plantings or for small or new farms or to correct inequities in farm allotments and to prevent hardships. Such surrendered acreage shall be reapportioned by the receiving county committee subject to the provisions of subparagraphs (3), (4), and (5) of this paragraph.

(7) *Closing dates.* The State committee shall establish the following closing dates for the entire State or for areas consisting of one or more counties in the State taking into consideration the normal planting dates within the State. In establishing closing dates, the State committee shall also take into consideration the time required for reapportionment of surrendered acreage to counties and farms.

(i) The closing date for release of allotments which shall be no later than the date on which planting of ELS cotton normally becomes general on farms in the State, area, or county.

(ii) The closing date for requests for reapportionment of allotments which shall be a date from the closing date for release of allotments to the closing date for reapportionment of allotments, both dates inclusive, but no later than April 15 of the current year.

(iii) The closing date for reapportionment of allotments to other farms which shall be no later than the latest date on which ELS cotton can normally be planted on farms in the State, area, or county with reasonable expectation of producing an average crop.

(8) *Acreage history.* For the purpose of determining future State and county allotments, released allotments will be credited to the State and county in which such allotments were released. In determining future farm allotments, the planting in the current year of reapportioned allotments shall not be considered. Any farm allotment released for the current year only, shall, in determining future farm ELS cotton allotments, be regarded as having been planted on the farm from which such allotment was released if ELS cotton was planted or regarded as planted on such farm under the conservation programs in at least one of the two years preceding the current year.

(9) *Public notice.* The county committee shall post in the county office the applicable closing dates and the amount of released allotments available in the county for reapportionment and to the extent practicable, such information shall be given general publicity in the county.

(Secs. 344, 375, 63 Stat. 670, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on February 9, 1965.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65-1590; Filed, Feb. 12, 1965; 8:48 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[Grapefruit Reg. 50]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 905.457 Grapefruit Regulation 50.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of other available information, it is hereby found and determined, in accordance with paragraph (5) of section 602 of the act, that the continuation of regulation of shipments of grapefruit, as hereinafter provided, and as provided in § 905.455 (30 F.R. 987), is necessary and will tend to avoid a disruption of the orderly marketing of the remainder of the current crop of such grapefruit; and such continuation of regulation will be in the public interest.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time, and good cause exists for making the provisions hereof effective as hereinafter set forth. The supporting information for regulation during the period specified herein, including necessary supplemental economic and statistical information upon which this regulation is based, were received on February 9, 1965; the regulatory provisions of this section are the same as those currently in effect; it is necessary, in order to effectuate the declared policy of the act, to make this section effective on the date hereinafter set forth; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Grapefruit (§§ 51.750-51.783 of this title).

(2) During the period beginning at 12:01 a.m., e.s.t., February 15, 1965, and ending at 12:01 a.m., e.s.t., March 1, 1965, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any seedless grapefruit, grown in Regulation Area I, which do not grade at least U.S. No. 1;

(ii) Any seedless grapefruit, grown in Regulation Area II, which do not grade at least U.S. No. 1 Russet: *Provided,* That such grapefruit which grade U.S. No. 2 or U.S. No. 2 Bright may be shipped if such grapefruit meet the requirements as to form (shape) and color specified in the U.S. No. 1 grade; or

(iii) Any seedless grapefruit, grown in the production area, which are smaller than 3⁹⁄₁₆ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit.

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

Dated: February 11, 1965

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 65-1638; Filed, Feb. 12, 1965; 8:50 a.m.]

[Navel Orange Reg. 73]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.373 Navel Orange Regulation 73.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an cpen meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 11, 1965.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., February 14, 1965, and ending at 12:01 a.m., P.s.t., February 21, 1965, are hereby fixed as follows:

(i) District 1: 800,000 cartons;
(ii) District 2: 450,000 cartons;
(iii) District 3: Unlimited movement;
(iv) District 4: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: February 12, 1965.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 65-1664; Filed, Feb. 12, 1965; 11:26 a.m.]

[Valencia Orange Reg. 104]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.404 Valencia Orange Regulation 104.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 11, 1965.

(b) *Order*. (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., February 14, 1965, and ending at 12:01 a.m., P.s.t., February 21, 1965, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: Unlimited movement;

(iii) District 3: 12,393 cartons.

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

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

Dated: February 12, 1965.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 65–1665; Filed, Feb. 12, 1965; 11:26 a.m.]

[Grapefruit Reg. 23]

PART 909—GRAPEFRUIT GROWN IN THE STATE OF ARIZONA; IN IMPERIAL COUNTY, CALIFORNIA; AND IN THAT PART OF RIVERSIDE COUNTY, CALIFORNIA, SITUATED SOUTH AND EAST OF WHITE WATER, CALIFORNIA

Limitation of Shipments

§ 909.323 Grapefruit Regulation 23.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of White Water, California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Administrative Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based become available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held an open meeting on February 4, 1965, to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such open meeting; necessary supplemental economic and statistical information upon which this recommended regulation is based were received by the Fruit Branch on February 8, 1965; information regarding the provisions of the regulation recommended by the committee has been disseminated to shippers of grapefruit, grown as aforesaid, and this section, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this section effective on the date hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order*. (1) Except as otherwise provided in subparagraph (2) of this paragraph, during the period beginning at 12:01 a.m., P.s.t., February 14, 1965, and ending at 12:01 a.m., P.s.t., February 28, 1965, no handler shall handle from the State of California or the State of Arizona to any point outside thereof:

(i) Any grapefruit which do not meet the requirements of the U.S. No. 2 grade and which are not free from peel that is more than one inch in thickness at the stem end (measured from the flesh to the highest point of the peel): *Provided*, That the tolerance prescribed for the U.S. No. 2 grade shall be the tolerances applicable to the requirements of this subparagraph except that not more than 5 percent shall be allowed for grapefruit having peel more than one inch in thickness at the stem end; or

(ii) Any grapefruit which measure less than $3\frac{11}{16}$ inches in diameter, except that a tolerance of 5 percent, by count, for grapefruit smaller than $3\frac{11}{16}$ inches shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerance specified in the revised United States Standards for Grapefruit (California and Arizona), §§ 51.925–51.955 of this title: *Provided*, That in determining the percentage of grapefruit in any lot which are smaller than $3\frac{11}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size $4\frac{2}{16}$ inches in diameter and smaller.

(2) Subject to the requirements of subparagraph (1) (i) of this paragraph, any handler may, but only as the initial handler thereof, handle grapefruit smaller than $3\frac{11}{16}$ inches in diameter directly to a destination in Zone 4, Zone 3 or Zone 2; and if the grapefruit is so handled directly to Zone 2 the grapefruit does not measure less than $3\frac{9}{16}$ inches in diameter: *Provided*, That a tolerance of 5 percent, by count, of grapefruit smaller than $3\frac{9}{16}$ inches in diameter shall be permitted, which tolerance shall be applied in accordance with the aforesaid provisions for the application of tolerances and, in determining the percentage of grapefruit in any lot which are smaller than $3\frac{9}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are $3\frac{13}{16}$ inches in diameter and smaller.

(3) As used herein, "handler," "variety," "grapefruit," "handle," "Zone 1," "Zone 2," "Zone 3," and "Zone 4" shall have the same meaning as when used in said amended marketing agreement and order; the term "U.S. No. 2" shall have the same meaning as when used in

the aforesaid revised United States Standards for Grapefruit; and "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit.

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

Dated: February 10, 1965.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 65-1611; Filed, Feb. 12, 1965; 8:48 a.m.]

[Lemon Reg. 148]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.448 Lemon Regulation 148.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 27 F.R. 8346), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 9, 1965.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., February 14, 1965, and ending at 12:01 a.m., P.s.t., February 21, 1965, are hereby fixed as follows:

(i) District 1: 18,600 cartons;

(ii) District 2: 120,900 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: February 11, 1965.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 65-1612; Filed, Feb. 12, 1965; 8:49 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Proceedings Under Section 242(f) of the Act

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

Paragraph (d) of § 242.23 is amended to read as follows:

§ 242.23 Proceedings under section 242 (f) of the Act.

* * * * *

(d) *Order.* If deportability as charged in the order to show cause is established, the special inquiry officer shall order that the respondent be deported under the previous order of deportation in accordance with section 242(f) of the act.

* * * * *

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rule prescribed by the order confers benefits upon persons affected thereby.

Dated: FEBRUARY 9, 1965.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 65-1565; Filed, Feb. 12, 1965; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

SUBCHAPTER A—TEST FEE SCHEDULES

PART 208—METALLURGY

Pursuant to authority contained in 15 U.S.C. 275a the following revision is effective upon publication in the FEDERAL REGISTER.

ELECTRODEPOSITION

§ 208.601 Standard thickness samples of electroplated coatings.

Item	Description	Fee
208.601a	Standard thickness samples of electroplated coatings, set of four samples.	$20.00
	Individual samples, each	5.00

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a)

A. V. ASTIN,
Director.

[F.R. Doc. 65-1572; Filed, Feb. 12, 1965; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-4761, 34-7525]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Miscellaneous Amendments

The Securities and Exchange Commission has adopted certain amendments to its General Rules and Regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934.

The amendments to the rules under the Securities Act of 1933 reflect the new numbering of the subsections of section 4 of the Act effected by the Securities Acts Amendments of 1964.

The amendments to the General Rules and Regulations under the Securities Exchange Act of 1934 make those rules generally applicable to issuers required to register securities pursuant to the new section 12(g) of the act. The changes are described in more detail below.

Rule 0-6 (redesignated 17 CFR 240.-0-6) relating to disclosure detrimental to the national security has been amended to include a reference to registration statements as well as other documents filed with the Commission.

Regulation 12B (17 CFR 240.12b-1 to 240.12b-36), as amended, contains general rules relating to the registration of securities on a national securities exchange pursuant to section 12(b) of that act, registration pursuant to the new section 12(g) of the act, reports pursuant to section 13 of the act and reports pursuant to section 15(d) of the act by certain registrants under the Securities Act of 1933.

Regulation 13A(17 CFR 240.13a-1 to 240.13a-15) contains certain special rules relating to periodic and other reports pursuant to section 13 of the act. The amendments to this regulation extend the applicability of those rules to reports filed pursuant to section 13 by issuers having securities registered pursuant to section 12(g).

Regulation 15D (17 CFR 240.15d-1 to 240.15d-21) contains certain special rules relating to the filing of periodic and other reports required by section 15(d) of the Act by certain issuers having securities registered under the Securities Act of 1933. The amendments to these rules conform them to the provisions of section 15(d) of the act as amended by the Securities Acts Amendments of 1964. In addition, Rule 15d-20 (17 CFR 240.15d-20), containing an exemption for certain closely held issuers from the reporting requirements of section 15(d) of the act, has been rescinded since it is no longer necessary under the provisions of the amended section 15(d).

Section 16(a) of the act, as amended by the Securities Acts Amendments of 1964, requires the directors, officers and principal equity security holders of listed companies and companies registered pursuant to the new section 12(g) of the act to file reports of their beneficial ownership of equity securities of their respective companies. The rules under this section have been amended to make them applicable to the additional reports required by the amended section.

The Securities Acts Amendments of 1964 redesignated section 16(d) of the act as "section 16(e)". Rule 16d-1 (17 CFR 240.16d-1) which relates to arbitrage transactions under section 16, has been amended to redesignate it as "Rule 16e-1" (17 CFR 240.16e-1) and to make it apply to securities registered pursuant to the new section 12(g) of the act.

Rule 24b-2 (17 CFR 240.24b-2), which provides a procedure for making formal objection to the public disclosure of information required to be filed with the Commission under the act, has been amended to include a reference to registration statements and to make clear that it refers to material contracts filed under the act. It has also been amended to make clear that only registration on an exchange may be withdrawn if confidential treatment requested under the rule is denied.

Commission action. Chapter II of Title 17 of the Code of Federal Regulations is amended in the following respects:

1. Part 230 is amended as follows:

§§ 230.151, 230.152, 230.155, 230.156 [Amended]

Sections 230.151, 230.152, 230.155 and 230.156 are amended by changing "section 4(1)," wherever it appears in the caption or text of those sections to "section 4(2)".

§ 230.152a [Amended]

Section 230.152a is amended by changing the phrase "within the meaning of the first clause of section 4(1) of the act" to "within the meaning of section 4(2) of the act".

§§ 230.133, 230.154 [Amended]

Sections 230.133 and 230.154 are amended by changing "section 4(2)", wherever it appears in the caption or text of those sections, to "section 4(4)".

II. Section 240.6 is redesignated as § 240.0-6 and paragraph (a) is amended to read as follows:

§ 240.0-6 Disclosure detrimental to the national security.

(a) Any requirement to the contrary notwithstanding, no application for registration, registration statement, report, proxy statement or other document filed with the Commission or any securities exchange shall contain any document or information that has been classified or determined by an appropriate department or agency of the United States to require protection in the interests of national defense.

* * * * *

III. The heading "Applications and Reports" preceding § 240.12b-1 is amended to read "Regulation 12B: Registration and Reporting". The subheading "General" is retained. The following sections of Regulation 12B (§§ 240.12b-1 to 240.12b-36) are amended as follows:

§ 240.12b-1 Scope of regulation.

The rules contained in this regulation shall govern all registration statements filed pursuant to section 12 of the act and all reports filed pursuant to sections 13 and 15(d) of the act, including all amendments to such statements and reports, except that any provision in a form covering the same subject matter as any such rule shall be controlling.

§ 240.12b-2 Definitions.

Unless the context otherwise requires, the following terms, when used in the rules contained in this regulation or in Regulation 13A or 15D or in the forms for statements and reports filed pursuant to sections 12, 13 or 15(d) of the act, shall have the respective meanings indicated in this rule:

* * * * *

(m) *Previously filed or reported*. The terms "previously filed" and "previously reported" mean previously filed with, or reported in, a statement under section 12, a report under section 13 or 15(d), a definitive proxy statement or information statement under section 14 of the act, or a registration statement under the Securities Act of 1933: *Provided*, That information contained in any such document shall be deemed to have been previously filed with, or reported to, an exchange only if such document is filed with such exchange.

* * * * *

(p) *Registrant*. The term "registrant" means an issuer of securities with respect to which a registration statement or report is to be filed.

(p-1) *Registration statement*. The term "registration statement" or "statement", when used with reference to registration pursuant to section 12 of the act, includes both an application for registration of securities on a national securities exchange pursuant to section 12(b) of the act and a registration statement filed pursuant to section 12(g) of the act.

* * * * *

§ 240.12b-10 Requirements as to proper form.

Every statement or report shall be on the form prescribed therefor by the Commission, as in effect on the date of filing. Any statement or report shall be deemed to be filed on the proper form unless objection to the form is made by the Commission within thirty days after the date of filing.

§ 240.12b-11 Number of copies; signatures, binding.

(a) Except as provided in a particular form, three complete copies of each statement or report, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commission. At least one complete copy of each statement shall be filed with each exchange on which the securities covered thereby are to be registered. At least one complete copy of each report under section 13 of the act shall be filed with each exchange on which the registrant has securities registered.

(b) At least one copy of each statement or report filed with the Commission and one copy thereof filed with each exchange shall be manually signed in the manner prescribed by the appropriate form. If the statement or report is typewritten, one of the signed copies filed with the Commission shall be an original "ribbon" copy. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement or report.

(c) Each copy of a statement or report filed with the Commission or with an exchange shall be bound in one or more parts. Copies filed with the Commission shall be bound without stiff covers. The statement or report shall be bound on the left side in such a manner as to leave the reading matter legible.

§ 240.12b-12 Requirements as to paper, printing and language.

(a) Statements and reports shall be filed on good quality, unglazed, white paper 8½ x 13 inches in size, insofar as practicable. However, tables, charts maps and financial statements may be on larger paper if folded to that size.

(b) The statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(c) The body of all printed statements and reports shall be in roman type at least as large as ten-point modern type. However, to the extent necessary for convenient presentation, financial statements and other statistical or tabular data and the notes thereto may be in type at least as large as 8 point modern type. All type shall be leaded at least 2 points.

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

§ 240.12b–13 Preparation of statement or report.

The statement or report shall contain the numbers and captions of all items of the appropriate form, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or instructions thereto. However, where any item requires information to be given in tabular form, it shall be given in substantially the tabular form specified in the item. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

§ 240.12b–14 Riders; inserts.

Riders shall not be used. If the statement or report is typed on a printed form, and the space provided for the answer to any given item is insufficient, reference shall be made in such space to a full insert page or pages on which the item number and caption and the complete answer are given.

§ 240.12b–15 Amendments.

All amendments shall be filed under cover of Form 8 and shall comply with all pertinent requirements applicable to statements and reports. Amendments shall be filed separately for each separate statement or report amended. Amendments to a statement may be filed either before or after registration becomes effective.

§ 240.12b–20 Additional information.

In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading.

§ 240.12b–23 Incorporation by reference.

(a) Matter contained in any part of a statement or report, other than exhibits, may be incorporated by reference in answer or partial answer to any item of the same statement or report. Matter contained in an exhibit may be so incorporated to the extent permitted in § 240.12b-24. A statement for registration of an additional class of securities of the registrant on the same exchange may incorporate by reference any item contained in any statement pursuant to which such prior registration is effective.

(b) Any financial statement filed with the Commission pursuant to any act administered by the Commission may be incorporated by reference in a statement or report, filed with the Commission by the same or any other person, if it substantially conforms to the requirements of the form on which the statement or report is filed. Any financial statement filed with an exchange pursuant to the act may be incorporated by reference in any statement or report filed with the exchange by the same or any other person, if it substantially conforms to the requirements of the form on which the statement or report is filed. If any financial statement filed with the Commission is incorporated by reference in copies of a statement or report filed with the Commission pursuant to section 12 or 13 of the act, copies of the financial statement may be filed with the exchange in lieu of the corresponding financial statement required by the form on which the statement or report is filed.

(c) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement or report where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement or report incomplete, unclear, or confusing.

§ 240.12b–32 Incorporation of exhibits by reference.

(a) Any document or part thereof filed with the Commission pursuant to any act administered by the Commission may, subject to § 201.24 of this chapter be incorporated by reference as an exhibit to any statement or report filed with the Commission by the same or any other person. Any document or part thereof filed with an exchange pursuant to the act may be incorporated by reference as an exhibit to any statement or report filed with the exchange by the same or any other person.

* * * * *

§ 240.12b–36 Use of financial statements filed under other acts.

Where copies of certified financial statements filed under other acts administered by the Commission are filed with a statement or report, the accountant's certificate shall be manually signed or manually signed copies of the certificate shall be filed with the financial statements. Where such financial statements are incorporated by reference in a statement or report, the written consent of the accountant to such incorporation by reference shall be filed with the statement or report. Such consent shall be dated and signed manually.

IV. The heading "Reports of Issuers of Listed Securities" preceding § 240.13a–1 is amended to read "Regulation 13A: Reports of Issuers of Securities Registered Pursuant to Section 12". The subheading "Annual Reports" is retained. The following sections of Regulation 13A (§§ 240.13a–1 to 240.13a–15) are amended as follows:

§ 240.13a–1 Requirement of annual reports.

Every issuer having securities registered pursuant to section 12 of the act shall file an annual report for each fiscal year after the last full fiscal year for which financial statements were filed in its registration statement. Registrants on Form 8–B shall file an annual report for each fiscal year beginning on or after the date as of which the succession occurred. The report shall be filed within 120 days after the close of the fiscal year or within such other period as may be specified in the appropriate form.

§ 240.13a–2 Annual reports of predecessors.

Every issuer having securities registered pursuant to section 12 of the act on Form 8–B shall file an annual report pursuant to § 240.13a–1 for each of its predecessors which had securities registered pursuant to section 12 covering the last full fiscal year of the predecessor prior to the registrant's succession, unless such report has been filed by the predecessor. Such annual report shall contain the information that would be required if filed by the predecessor.

§ 240.13a–3 Reports in case of new registration.

(a) Notwithstanding § 240.13a–1, any registrant which has filed, within the period prescribed for filing an annual report pursuant to that rule—

(1) A registration statement under the Securities Act of 1933 which has become effective and is not subject to any proceeding under section 8(d) of that act or to an order entered thereunder, or

(2) A registration statement pursuant to section 12 of the Securities Exchange Act of 1934 which has become effective and is not subject to any proceeding under section 15(c)(4) or 19(a)(2) of that act or to an order thereunder, may file as its annual report pursuant to § 240.13a–1 copies of the registration statement in lieu of an annual report on the appropriate annual report form if the statement covers the fiscal period that would be covered by a report on the appropriate annual report form and contains all of the information, including financial statements and exhibits, re-

quired by the appropriate annual report form.

(b) The report shall be filed under cover of the facing sheet of the appropriate annual report form and shall be signed in accordance with the requirements of that form. The following statement shall appear on the facing sheet of the annual report or on the page immediately following the facing sheet:

This annual report, filed pursuant to Rule 13a-3, consists of the information and documents contained in the registration statement on form ____, filed by the registrant on __________, 19__, as amended under dates of ____

(c) Any financial statements or exhibits included in the registration statement which are not required by the appropriate annual report form may be omitted.

(d) If any registration statement included in the annual report incorporates by reference any financial statements or exhibits required by the appropriate annual report form which are on file with the Commission but are not on file with any exchange with which the annual report is to be filed, the copies of the annual report filed with such exchange shall include copies of such financial statements or exhibits.

(e) Copies of the report filed with the Commission may incorporate the registration statement by reference. If a report consists of a registration statement filed pursuant to section 12(b) of the act, copies of the report filed with an exchange with which the statement was filed may incorporate the statement by reference.

§ 240.13a–10 Interim reports.

(a) Every issuer which changes its fiscal closing date after the last fiscal year for which financial statements were filed in its registration statement pursuant to section 12 of the act shall file a report covering the resulting interim period not more than 120 days after the close of the interim period or after the date of the determination to change the fiscal closing date, whichever is later.

(b) Every issuer having securities registered on Form 8–B shall file an interim report for the period, if any, between the close of the fiscal year covered by the last annual report of its predecessor or predecessors and the beginning of the first fiscal year of the registrant subsequent to the succession. The report shall be filed within 120 days after the close of the period. It shall include information regarding the predecessor or predecessors from the close of the most recent fiscal year prior to the succession as if such predecessor or predecessors were the registrant. The financial statements filed with the report shall give effect to the operations of, and transactions by the predecessor or predecessors during the period as if they were the registrant. A statement to that effect has been given to such operations and transactions shall be made in a note or otherwise. Separate financial statements for the predecessor or predecessors need not be filed.

* * * * *

§ 240.13a–13 Semiannual reports on Form 9–K.

(a) Every issuer of a security registered pursuant to section 12 of the act which is required to file annual reports on Form 10–K (§ 249.310) or Form U5S (§ 259.5S), or which is required to file a report on one of such forms as Part II of Form 16–K (§ 249.316) or Form 19–K (§ 249.319), shall file a semiannual report on Form 9–K (§ 249.309) for the first half of each fiscal year ending after the close of the latest fiscal year for which financial statements of such issuer were filed in a registration statement pursuant to section 12.

(b) Such reports on Form 9–K shall be filed not more than 45 days after the end of the 6-month period for which they are filed. However, the report for any period ending prior to the date on which a class of securities of the issuer first becomes effectively registered pursuant to section 12 may be filed not more than 45 days after the effective date of such registration.

* * * * *

§ 240.13a–15 Quarterly reports of certain real estate companies.

(a) Except as provided in paragraph (b) of this section every issuer of a security registered pursuant to section 12 of the act (1) which is a real estate investment trust, as defined in section 856 of the Internal Revenue Code, or (2) whose business if primarily that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers whose business is primarily that of acquiring and holding real estate or interests in real estate for investment, shall file a report on Form 7–K (§ 249.307) for each fiscal quarter ending on or after the date on which a class of securities of the issuer first becomes so registered. Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed.

* * * * *

V. The heading "Reports of Registrants Under the Securities Act of 1933" preceding § 240.15d–1 is amended to read "Regulation 15D: Reports of Registrants Under the Securities Act of 1933". The subheading "Annual Reports" is retained. Section 240.15d–20 is hereby rescinded. The following sections of Regulation 15D (§§ 240.15d–1 to 240.15d–21) are amended as follows:

§ 240.15d–1 Requirements of annual reports.

Every registrant under the Securities Act of 1933 which is subject to section 15(d) of the Securities Exchange Act of 1934 shall file an annual report for each fiscal year after the last full fiscal year for which certified financial statements were contained in its registration statement under that act at the time such statement became effective. The report shall be filed within 120 days after the close of the fiscal year or within such other period as may be specified in the appropriate annual report form.

§ 240.15d–13 Semiannual reports on Form 9–K.

(a) Every issuer which is required by § 240.15d–1 to file annual reports on Form 10–K (§ 249.310) or Form U5S (§ 259.5S) shall file a semiannual report on Form 9–K (§ 249.309) for the first half of each fiscal year ending after the close of the latest fiscal year for which financial statements of such issuer were filed in a registration statement under the Securities Act of 1933.

* * * * *

§ 240.15d–15 Quarterly reports of certain real estate companies.

(a) Except as provided in paragraph (b) of this section, every issuer which is subject to section 15(d) of the act and (1) which is a real estate investment trust, as defined in section 856 of the Internal Revenue Code, or (2) whose business is primarily that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers whose business if primarily that of acquiring and holding real estate or interests in real estate for investment, shall file a report on Form 7–K (§ 249.307) for each fiscal quarter ending on or after the date on which such issuer's registration statement under the Securities Act of 1933 becomes effective. Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed.

* * * * *

VI. The following sections of Part 240 are amended as follows:

§ 240.16a–1 Filing of statements.

* * * * *

(b) A person who is already filing statements pursuant to section 16(a) of the act with respect to equity securities registered pursuant to either section 12(b) or 12(g) of the act need not file an additional statement on Form 3 (§ 249.103):

(1) When an additional class of equity securities of the same issuer becomes registered pursuant to the same subsection of the act; or

(2) If any class of equity securities is registered pursuant to section 12(b), when another class of equity securities of the same issuer becomes registered pursuant to section 12(g); or

(3) When such person assumes another or an additional relationship to the issuer; for example, when an officer becomes a director.

* * * * *

§ 240.16a–2 Ownership of more than 10 percent of an equity security.

In determining, for the purpose of section 16(a) of the act whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of any equity security, such class shall be deemed to consist of the total amount of such class which has been issued, regardless of whether any part of such amount is held by or for the account of the issuer; except that for the purpose of determining the percentage of ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the entire amount of voting trust certificates or certificates of deposit issuable in respect of the class of equity securities which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such class has been so deposited.

§ 240.16a-4 Exemptions from sections 16(a) and 16(b) of the act.

(a) During the period of 12 months following their appointment and qualification, securities held by the following persons shall be exempt from sections 16(a) and 16(b) of the act:

(1) Executors or administrators of the estate of a decedent;

(2) Guardians or committees for an incompetent; and

(3) Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents, and other similar persons duly authorized by law to administer the estate or assets of other persons.

(b) After the 12-month period following their appointment or qualification the foregoing persons shall be required to file reports with respect to the securities held by the estates which they administer under section 16(a) and shall be liable for profits realized from trading in such securities pursuant to section 16(b) only when the estate being administered is a beneficial owner of more than 10 percent of any class of equity security (other than an otherwise exempted security) which is registered pursuant to section 12 of the act.

(c) Securities reacquired by or for the account of an issuer and held by it for its account shall be exempt from sections 16(a) and 16(b) during the time they are held by the issuer.

* * * * *

§ 240.16a-8 Ownership of securities held in trust.

* * * * *

(c) In the event that 10 percent of any class of any equity security (other than an exempted security) which is registered pursuant to section 12 of the act is held in a trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in section 16(a) of the act.

* * * * *

(f) In determining, for the purposes of section 16(a) of the act, whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of any equity security, the interest of such person in the remainder of a trust shall be excluded from the computation.

* * * * *

VII. Section 240.16d-1 is redesignated § 240.16c-1 and is amended to read as follows:

§ 240.16c-1 Arbitrage transactions under section 16.

It shall be unlawful for any director or officer of an issuer of an equity security which is registered pursuant to section 12 of the act to effect any foreign or domestic arbitrage transaction in any equity security of such issuer, whether registered or not, unless he shall include such transaction in the statements required by section 16(a) and shall account to such issuer for the profits arising from such transaction, as provided in section 16(b). The provision of section 16(c) shall not apply to such arbitrage transactions. The provisions of section 16 shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than such director or officer of the issuer of such security.

VIII. Section 240.24b-2 is amended as follows:

§ 240.24b-2 Nondisclosure of information filed with the Commission and with any exchange.

Any person filing any registration statement, report, material contract, or other document (hereinafter referred to as the material filed) under the act may make written objection to the public disclosure of any information contained therein in accordance with the procedure set forth below:

(a) The person shall omit from the material filed the portion thereof which it desires to keep undisclosed (hereinafter called the confidential portion). In lieu thereof, it shall indicate at the appropriate place in the material filed that the confidential portion has been so omitted and filed separately with the Commission.

(b) The person shall file with the copies of the material filed with the Commission—

(1) As many copies of the confidential portion, each clearly marked "Confidential Treatment", as there are copies of the material filed with the Commission and with any exchange. Each copy shall contain an appropriate identification of the item or other requirement involved and, notwithstanding that the confidential portion does not constitute the whole of the answer, the entire answer thereto; except that in case the confidential portion is part of a financial statement or schedule, only the particular financial statement or schedule need be included. All copies of the confidential portion shall be in the same form as the remainder of the material filed.

(2) An application making objection to the disclosure of the confidential portion. Such application shall be on a sheet or sheets separate from the confidential portion, and shall contain: (i) An identification of the portion of the material filed which has been omitted; (ii) a statement of the grounds of objection; (iii) either a consent that the Commission shall determine the question of public disclosure upon the basis of the application and without a hearing, or a request for a hearing on the question of public disclosure, if that is desired; and (iv) the name of each exchange, if any, with which the material is filed.

The copies of the confidential portion and the application filed in accordance with this paragraph (b) shall be enclosed in a separate envelope marked "Confidential Treatment" and addressed to The Secretary, Securities and Exchange Commission, Washington, D.C., 20549.

* * * * *

(d) If the Commission determines that the objection shall be sustained, a notation to that effect will be made at the appropriate place in the material filed.

* * * * *

(f) If after such hearing the Commission determines that the objection shall be sustained, a notation to that effect will be made at the appropriate place in the material filed.

* * * * *

(h) If such finding and determination are made with respect to the confidential portion of material filed by the issuer of a security registered on any exchange, the registration of securities on each exchange with respect to which the material filed relates may be withdrawn at any time within 15 days of the dispatch of notice by registered or certified mail of such finding and determination. Such withdrawal shall be effected as follows:

(1) The issuer shall file with the Commission a written notification of withdrawal.

(2) Upon receipt of such notification, the Commission will send confirmed telegraphic notice thereof to each exchange on which the securities are registered.

(3) The registration shall continue in effect until, and shall terminate on, the close of business on the 10th day after the dispatch of such telegraphic notice to the exchange by the Commission.

(4) All material filed in connection with the registration shall be retained by the Commission and the exchange on which filed, and shall be plainly marked: "Registration withdrawn as of ________ (date of termination of registration)" except that all copies of the confidential portion will be returned to the issuer.

* * * * *

(j) If the confidential portion is made available to the public, one copy thereof shall be attached to each copy of the material filed with the Commission and with each exchange.

(Secs. 4 and 19, 48 Stat. 77, 85, as amended, 15 U.S.C. 77d, 77s; secs. 12, 13, 15, 16, 23 and 24, 48 Stat. 892, 894, 895, 896 and 901, as amended, 15 U.S.C. 781, 78m, 780, 780, 78w and 78x)

Effective date. The amendments shall become effective on March 8, 1965.

By the Commision.

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

FEBRUARY 5, 1965.

[F.R. Doc. 65-1552; Filed, Feb. 12, 1965; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

THIABENDAZOLE

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions (FAP 4D1440, 5D1610) filed by Moorman Manufacturing Co., Quincy, Ill., and Merck & Co., Inc., Rahway, N.J., 07065, and other relevant material, has concluded that the food additive regulations (21 CFR 121.260) should be amended to provide conditions under which thiabendazole may be safely used as a drench or tablet and in cattle feed. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90), § 121.260(c) is amended by revising the text under "Limitations" for items 1 and 2 in both tables 1 and 2. Also, in table 1 the column headings that read "Dose" are changed to read "Amount". As amended, the affected portions read as follows:

§ 121.260 Thiabendazole.

* * * * *

(c) * * *

TABLE 1—MISCELLANEOUS

Principal ingredient	Amount	Combined with—	Amount	Limitations	Indications for use
1. Thiabendazole	* * *			For cattle; as a single oral dose; as a drench or tablet; may repeat once in 2 to 3 weeks; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.	* * *
2. Thiabendazole	* * *			do	* * *

TABLE 2—THIABENDAZOLE IN FEED

Principal ingredient	Amount	Combined with—	Amount	Limitations	Indications for use
1. Thiabendazole	* * *			For cattle: 3 gm. per 100-lb. body weight at a single dose; may repeat once in 2 to 3 weeks; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.	* * *
2. Thiabendazole	* * *			For cattle: 5 gm. per 100-lb. body weight at a single dose or divided into 3 equal doses administered, 1 dose each day, on succeeding days; may repeat once in 2 to 3 weeks; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: February 8, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-1512; Filed, Feb. 12, 1965; 8:45 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

[CGFR 64-87]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of this document is to bring the vessel inspection regulations up to date, correct references to various laws or regulations, revise descriptions of Coast Guard procedures, and to publish such changes so that Coast Guard pamphlets containing rules and regulations and the Code of Federal Regulations will read the same. In comparing regulations published in pamphlet form and the regulations in 46 CFR Chapter I, a number of variations were noted.

The amendments to 46 CFR 10.02-5(c)(10), 51.01-60, 51.07-1, 52.05-10, 52.22-10(a), 52.50-1, 52.70-10, 53.03-35, 53.03-55(g), 54.03-15(a), 54.03-25(c)(5), 54.07-5(a), 55.07-5(a)(1), 55.10-20(b), 57.10-10(b), 61.01-1, 61.10-1(a), 94.10-40, 98.-25-60(d)(1), 111.50-1(a), 111.50-15(e)(3) and 157.10-75 revise phrases or delete material so that wording in the Code of Federal Regulations and regulations distributed and followed by the public will be the same.

The amendments to 46 CFR 10.20-11, 14.05-1, 14.05-10, 14.05-20, 54.01-10, 55.-01-10, 56.01-45, 56.05-6(a)(2)(c), 61.45-1, 61.45-15, and 111.05-5, correct references or make changes in addresses to show ZIP Code numbers.

The amendment to 46 CFR 55.07-1(b) deletes from Table 55.07-1(b) requirements governing seamless copper which is no longer produced by deleting reference to the American Society of Testing Materials specification B-13, Coast Guard grades B13-A, -B piping materials.

The amendments to 46 CFR 164.013-4(j) and 164.013-5 revise the description of procedures for the acceptance of polyethylene unicellular foam for lifesaving equipment. Formal Coast Guard approval is not given for this material but rather a statement of acceptance prior to its being used by manufacturers of lifesaving equipment. This Coast Guard acceptance procedure is clarified.

As the amendments in this document are either changes in procedures or changes deemed to be editorial in effect, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedure thereon and effective date requirements) is unnecessary.

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, U.S. Code, and Treasury Department Order 120, dated July 31, 1950 (15 F.R. 6521), and others specifically listed with the regulations below, the following amendments are prescribed and shall be effective on date of publication in the FEDERAL REGISTER:

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

Subpart 10.02—General Requirements for All Deck and Engineer Officers' Licenses

§ 10.02-5 [Amended]

1. Section 10.02-5 *Requirements for original licenses* is amended by revising in paragraph (c)(10), introductory sentence, the phrase from "no one of the

requirements" to "none of the requirements."

Subpart 10.20—Motorboat Operators' Licenses

§ 10.20–11 [Amended]

2. Section 10.20–11 *Issuance of duplicate license* is amended by changing the section reference from "10.20–23" to "10.02–23."

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 14—SHIPMENT AND DISCHARGE OF SEAMEN

1. The authority for Part 14 is amended to read as follows:

AUTHORITY: The provisions of this Part 14 are issued under R.S. 4551, as amended, sec. 13, 38 Stat. 1169, as amended, sec. 7, 49 Stat. 1936, as amended; 46 U.S.C. 643, 672, 689, Treasury Department Order 120, July 31, 1950, 15 F.R. 6521. Additional authority is cited with sections affected.

Subpart 14.05—Shipping Articles

§ 14.05–1 [Amended]

2. Section 14.05–1 *Preparation and number of copies of shipping articles* is amended by revising in the second sentence the phrase from "Washington 25, D.C.," to "Washington, D.C., 20226."

§ 14.05–10 [Amended]

3. Section 14.05–10 *Completing entries in shipping articles at completion of voyage* is amended by revising in the first sentence of paragraph (a) the phrase from "Commandant at Washington, D.C." to "Commandant (MVP), Coast Guard Headquarters, Washington, D.C., 20226."

§ 14.05–20 [Amended]

4. Section 14.05–20 *Master reporting shipping and discharging of seamen on Form CG–735–T* is amended by revising in the last sentence of paragraph (c) the phrase from "Commandant (MVP), U.S. Coast Guard Headquarters, Washington, D.C." to "Commandant (MVP), Coast Guard Headquarters, Washington, D.C., 20226."

SUBCHAPTER F—MARINE ENGINEERING

PART 51—MATERIALS

Subpart 51.01—General

§ 51.01–60 [Amended]

1. Section 51.01–60 *Stamping plates and specimens* is amended by revising in the first sentence of paragraph (a) the phrase from "strength of the plate per square inch of cross-section area expressed in thousands" to "strength of the plate in pounds per square inch expressed in thousands."

Subpart 51.07—Staybolt and Rivet Steel

2. Section 51.07–1 is amended by revising Table 51.07–1 to read as follows:

§ 51.07–1 Scope.

* * * * *

TABLE 51.07–1—MATERIAL SPECIFICATIONS

A.S.T.M. designation	A.S.T.M. grade	Coast Guard grade
A31–55	A	A
A31–55	B	B
A202–56	A	C

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 52—CONSTRUCTION

Subpart 52.05—Cylindrical Shells

§ 52.05–10 [Amended]

1. Section 52.05–10 *Computations* is amended by revising in Table 52.05–10 (a) for "pipes and tubes" made of "electric-resistance-welded pipe" under specification subpart 51.34, in same line as A.S.T.M. designation (second column) A312, A.S.T.M. grade (third column) TP304L, and C.G. grade (fourth column) P304L–RW, the quantity of the minimum tensile strength p.s.i. in the fifth column from "70,000" to "75,000" and by deleting paragraph (b).

Subpart 52.10—Flat Heads

2. Section 52.22–10 *Computations* is amended by revising in paragraph (a), following formulas (1) and (2), for the value "C=0.50 for plates having a dimension D * * *" the phrase from "class II welding" to "Class II welded pressure vessel."

Subpart 52.50—Furnaces and Flues

§ 52.50–1 [Amended]

3. Section 52.50–1 *Definitions* is amended by revising in paragraph (e) the phrase from "by means of riveted or welded joints" to "by means of riveting or welding."

Subpart 52.70—Boiler Mountings and Attachments

§ 52.70–10 [Amended]

4. Section 52.70–10 *Detail requirements* is amended by revising in paragraph (a) the phrase from "fitted with flanged or welding ends" to "fitted with flanged or welded ends."

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 53—LOW-PRESSURE HEATING BOILERS

Subpart 53.03—Steel Plate Heating Boilers

§ 53.03–35 [Amended]

1. Section 53.03–35 *Boiler tubes* is amended by revising in paragraph (b) the phrase from "No. 16 B.W.G. gauge" to "No. 16 B.W.G."

2. Section 53.03–55 *Installation* is amended by deleting paragraph (g).

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 54—UNFIRED PRESSURE VESSELS

Subpart 54.01—General Requirements

§ 54.01–10 [Amended]

1. Section 54.01–10 *Plan approval* is amended by revising in the last sentence the phrase from "Washington 25, D.C.," to "Washington, D.C., 20226."

Subpart 54.03—Design and Construction

§ 54.03–15 [Amended]

2. Section 54.03–15 *Tube sheets* is amended by revising in paragraph (a), following formula (8), the first value by inserting "P=" before "maximum allowable pressures, * * *."

§ 54.03–20 [Amended]

3. Section 54.03–25 *Bolted flanged connections* is amended by revising in paragraph (c)(5) the meaning of design symbol "y=gasket or joint-contact-surface * * *" by changing the phrase from "seating load" to "seating stress."

Subpart 54.07—Pressure-Relief Devices

§ 54.07–5 [Amended]

4. Section 54.07–5 *Relief valves* is amended by revising in paragraph (a) the phrase from "the requirement of" to "the requirements for".

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 55—PIPING SYSTEMS AND APPURTENANCES

Subpart 55.01—General

§ 55.01–10 [Amended]

1. Section 55.01–10 *Plan approval* is amended by revising in the last sentence the phrase from "Washington 25, D.C." to "Washington, D.C., 20226."

Subpart 55.07—Detail Requirements

§ 55.07–1 [Amended]

2. Section 55.07–1 *Material* is amended by revising Table 55.07–1(b) by deleting from under "copper and copper-alloy pipe and tubing" of "seamless copper" the entire first line for material specification subpart 51.73, A.S.T.M. specification B13, (second column), Grade B13–A, (third column), etc.

3. Section 55.07–5 *Design pressures and thickness of pipes* is amended by revising in the note following paragraph (a)(1) the formula from "h=0.8n" to "h=0.8/n."

Subpart 55.10—Pumping Arrangements and Piping Systems

§ 55.10-20 [Amended]

4. Section 55.10–20 *Circulating pumps* is amended by revising in paragraph (b) the phrase from "emergency pumps" to "emergency circulating pumps".

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 56—ARC WELDING, GAS WELDING, AND BRAZING

Subpart 56.01—Arc Welding and Gas Welding

§ 56.01–45 [Amended]

1. Section 56.01–45 *Calculations* is amended by revising in paragraph (b) the section reference from "§ 52.20–10" to "§§ 52.20–10 and 52.22–10".

Subpart 56.05—Tests and Inspection

§ 56.05–6 [Amended]

2. Section 56.05–6 *Spot examination of welded joints* is amended by inserting in paragraph (a)(2) after "Part 52" the reference to "and table 54.03–10(c)"; and by revising in paragraph (c), first sentence, the reference from "§ 56.05–5(o)" to "§ 56.05–5(q)".

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 57—MAIN AND AUXILIARY MACHINERY

Subpart 57.10—Internal Combustion Engine Installations

§ 57.10–10 [Amended]

1. Section 57.10–10 *Diesel engine installations* is amended by revising in paragraph (b) the phrase from "dead air space of one-fourth inch" to "dead air space of at least one-fourth inch."

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 61—INSTALLATIONS, TESTS, INSPECTIONS, MARKINGS AND OFFICIAL FORMS

Subpart 61.01—General Requirements

§ 61.01–1 [Amended]

1. Section 61.01–1 *Scope* is amended by revising in the first sentence the phrase from "tests and inspections" to "tests, inspections and markings".

Subpart 61.10—Initial and Periodic Vessel Inspection

§ 61.10–1 [Amended]

2. Section 61.10–1 *Scope* is amended by revising in paragraph (a) the phrase from "inspection tests" to "inspection and tests."

Subpart 61.45—Official Forms

§ 61.45–1 [Amended]

3. Section 61.45–1 *Scope* is amended by revising in the last sentence the phrase from "Washington 25, D.C." to "Washington, D.C., 20226."

§ 61.45–15 [Amended]

4. Section 61.45–15 *Form CG–935A; affidavit of manufacturer of class B material or appliances* is amended by revising in the first sentence the phrase from "Washington 25, D.C." to "Washington, D.C., 20226."

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 94—LIFESAVING EQUIPMENT

Subpart 94.10—Lifeboats, Liferafts, Lifefloats, Buoyant Apparatus, and Rescue Boats

§ 94.10–40 [Amended]

1. Section 94.10–40 *Requirements for vessels in Great Lakes; lakes, bays, and sounds; or river service other than fireboats, wrecking and fishing vessels, pilot boats, and yachts* is amended by revising in Table 94.10–40(a), under the heading "Rivers," for vessels "50 gross tons and over," the three identical entries with footnote "3" in the seventh column from "Only 1 lifeboat required [3]"; to "At least one suitable boat with lines attached and supplied with oars [3]"; and by revising footnote "3" to the Table 94.10–40(a) by changing the phrase at the end thereof from "with lifeboats or liferafts" to "with boats."

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

Subpart 98.25—Anhydrous Ammonia in Bulk

1. Section 98.25–60(d)(1) and formula (1) are amended to read as follows (values for formula (1) are corrected):

§ 98.25–60 Safety relief valves.

* * * * *

(d)(1) The minimum rates of discharge of safety relief valves for uninsulated tanks shall be not less than that determined by the following formula:

$$Q=21.633A^{0.82} \qquad (1)$$

where:

Q = minimum required rate of discharge in cubic feet per minute of standard air at 120 percent of the maximum set pressure of the safety relief valve. Discharge measured at 60° F. and atmospheric pressure (14.7 p.s.i.a.).

A = total external surface area of the tank, in square feet.

$A=\pi(D\times U)$ for cylindrical tanks with hemispherical heads.

$A=\pi D(U+0.3D)$ for cylindrical tanks with spherically dished or semiellipsoidal heads.

$A=\pi D^2$ for spherical tanks.

D = outside diameter of the tanks, in feet.

U = external overall length of the tank, in feet.

(R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 111—ELECTRICAL SYSTEM; GENERAL REQUIREMENTS

Subpart 111.05—General Requirements

§ 111.05–5 [Amended]

1. Section 111.05–5 *Plan approval* is amended by revising in paragraph (b)(3) the phrase from "Washington 25, D.C." to "Washington, D.C., 20226."

Subpart 111.50—Distribution and Circuit Loads

§ 111.50–1 [Amended]

2. Section 111.50–1 *Distribution, general requirements* is amended by revising in paragraph (a), second sentence, the phrase from "be on tankers" to "be used on tankers."

§ 111.50–15 [Amended]

3. Section 111.50–15 *Lighting branch circuits and lighting requirements* is amended by revising in paragraph (e)(3), first sentence, the phrase at the end thereof from "launching devices and water into the liferafts are launched" to "launching devices, and water into which the liferafts are launched."

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

SUBCHAPTER P—MANNING OF VESSELS

PART 157—MANNING REQUIREMENTS

Subpart 157.10—Definitions of Terms

§ 157.10–75 [Amended]

1. Section 157.10–75 *Staff officers* is amended by inserting in paragraph (a) a reference to "professional nurse" provided for by Public Law 88–128, approved September 23, 1963, by revising the phrase from "or (5) Surgeon," to "(5) Surgeon, or (6) Professional Nurse".

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

SUBCHAPTER Q—SPECIFICATIONS

PART 164—MATERIALS

Subpart 164.013—Foam, Unicellular, Polyethylene (Buoyant, Slab, Slitted, Trigonal Pattern) for Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire

§ 164.013–4 [Amended]

1. Section 164.013–4 *Inspections and tests* is amended by deleting paragraph (j) *Acceptance*.

2. Section 164.013–5 is amended to read as follows:

§ 164.013–5 Procedure for acceptance.

(a) Unicellular polyethylene foam is not subject to formal approval, but will be accepted by the Coast Guard on the basis of this subpart for use in the manufacture of lifesaving equipment utilizing it.

(b) Upon receipt of an application requesting acceptance, the Commander of the Coast Guard District will detail a marine inspector to the factory to observe the production facilities and manufacturing methods, and to select from foam already manufactured sufficient sample material for testing for compliance with the requirements of this specification. A copy of the marine inspector's report, together with the sample material and one copy of an independent laboratory test report, will be forwarded to the Commandant and if satisfactory, notice of acceptance will be given to the manufacturer.

(c) Acceptance of unicellular polyethylene foam prior to being incorporated into finished products, or during the course of manufacture, shall in no case be construed as a guarantee of the acceptance of the finished product.

(d) The manufacturer of the foam shall provide the manufacturer of the lifesaving equipment with an affidavit stating that the foam conforms to all of the requirements of this subpart.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply secs. 6, 17, 54 Stat. 164, as amended, 166, as amended; 46 U.S.C. 526e, 526p. Treasury Department Order 120, July 31, 1950, 15 F.R. 6521)

Dated: February 10, 1965.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 65-1579; Filed, Feb. 12, 1965; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Coast Guard

[46 CFR Parts 51–55, 61, 98, 162]

[CGFR 65-3]

VESSEL INSPECTION REGULATIONS

Public Hearing on Proposed Changes

1. The Merchant Marine Council will hold a public hearing on Monday, March 22, 1965, commencing at 9:30 a.m. in the Departmental Auditorium, between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C., for the purpose of receiving comments, views, and data on the proposed changes in the navigation and vessel inspection rules and regulations. The first 10 items containing these proposals are described in detail in the Merchant Marine Council Public Hearing Agenda (CG-249), dated March 22, 1965, and are generally described in another notice of proposed rule making, identified as Coast Guard document CGFR 64-89.

2. This document contains general descriptions of additional proposed changes in the regulations together with appropriate references to statutory authorities, which will be considered by the Merchant Marine Council at the public hearing on March 22, 1965. The complete text of the proposed changes and additions to the regulations is set forth in the "Merchant Marine Council Public Hearing Agenda, Volume II" (CG-249), dated March 22, 1965. Copies of this Agenda are mailed to persons and organizations who have expressed a continued interest in the subjects under consideration and have requested that copies be furnished them. Copies of the Agenda will be furnished, upon request to the Commandant (CMC), U.S. Coast Guard, Washington, D.C., 20226, so long as they are available. After the supply of extra copies is exhausted copies will be available, for reading purposes only, in Room 4211, Coast Guard Headquarters, or at the offices of the various Coast Guard District Commanders.

3. Comments on the proposed regulations are invited. Written comments containing constructive criticism, suggestions, or views are welcomed. However, acknowledgment of the comments received or reasons why the suggested changes were or were not adopted cannot be furnished since personnel are not available to handle the necessary correspondence involved. Each oral or written comment is considered and evaluated. If it is believed the comment, view or suggestion clarifies or improves a proposed regulation or amendment, such proposal is changed accordingly and, after adoption by the Commandant, the regulations as revised are published in the FEDERAL REGISTER.

4. Each person or organization who desires to submit comments, data or views in connection with the proposed regulations set forth in the Merchant Marine Council Public Hearing Agenda should submit them in triplicate so that they will be received by the Commandant (CMC), U.S. Coast Guard Headquarters, Washington, D.C., 20226, prior to March 19, 1965. Comments, data or views may be presented orally or in writing at the Public Hearing before the Merchant Marine Council on March 22, 1965. In order to insure consideration of written comments and to facilitate checking and recording, it is essential that each comment regarding a section or paragraph of the proposed regulations be submitted on Form CG-3287, showing the section number (if any), the subject, the proposed change, the reason or basis and the name, business firm or organization (if any), and address of the submitter. A small quantity of Form CG-3287 is attached to the Agenda. Additional copies may be reproduced by typewriter or otherwise.

5. Each item on the Agenda has been given a general title, intended to encompass the specific proposals presented. It is urged that each item be read completely because the application of proposal to specific employment or types of vessels may be found in more than one item.

ITEM X—SPECIFICATIONS AND APPROVALS OF EQUIPMENT (CONTINUED)

6. Additional equipment specification revisions are proposed. These specification requirements govern the manufacturers of approved equipment, which equipment may then be used on board vessels in accordance with specific regulations governing various categories of vessels as set forth in Chapter I of Title 46, CFR.

XI—BACKFIRE FLAME CONTROL, GASOLINE ENGINES

7. The authority to prescribe regulations for the backfire flame control of gasoline engines, construction requirements for specific types of equipment, and approval of such equipment is in R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, and sections 10 and 17 of the Motorboat Act of April 25, 1940, as amended; 46 U.S.C. 375, 416, 481, 489, 526l and 526p. The other statutes interpreted or applied are R.S. 4426, as amended, section 3 of Act of June 12, 1940, as amended, and section 3 of Act of May 10, 1956; 46 U.S.C. 404, 1333, and 390b. The delegation of authority for the Commandant, U.S. Coast Guard, to prescribe regulations is in Treasury Department Orders 120, July 31, 1950, 15 F.R. 6521; 167-20, June 18, 1956, 21 F.R. 4894; and 167-38, Oct. 26, 1959, 24 F.R. 8857.

162.015—FLAME ARRESTERS, BACKFIRE (FOR CARBURETORS), FOR MERCHANT VESSELS AND MOTORBOATS

8. The purposes for revising 46 CFR 162.015-1 to 162.015-6, inclusive, are to make the regulations clear to all concerned and to facilitate enforcement. The title of Subpart 162.015 is to be changed from "Flame Arresters, Backfire (for Carburetors), for Merchant Vessels and Motorboats," to "Backfire Flame Control, Gasoline Engines," in order to better describe the field which is covered by the revised specification. This proposal will, therefore, revise the specification in its entirety.

9. Originally, proposals regarding this subject were printed in the Merchant Marine Council Public Hearing Agenda of March 25, 1963, as a part of Item II (pages 51 to 61, inclusive). The Merchant Marine Council, after consideration of comments, etc., deferred action pending further informal meetings with representatives of manufacturers of flame arresters, the Yacht Safety Bureau, and other interested parties. As rewritten, the proposed regulations incorporate the revised proposals considered in these discussions, including the broadening of the scope to include backfire flame control rather than the previous limitation to backfire flame arresters.

10. The proposed scope of the specification defines the acceptable methods of adequate backfire flame control by providing for three methods; i.e., a backfire flame arrester; an engine air and fuel induction system designed to provide protection from the propagation of backfire flame to the atmosphere; and an engine air induction system designed so that any flames caused by engine backfire will be dispersed to the atmosphere outside the vessel in such a manner that the flames will not endanger the vessel or persons on board. It is also proposed to define a "backfire flame arrester" as meaning the complete assembly rather than just the grid element alone.

11. The proposals on marking were discussed at considerable length. It is proposed to require the marking of all component parts of a backfire flame arrester assembly, as well as require Coast Guard approval numbers to be in the marking for all backfire flame control installations. The minimum wording proposed for the three methods are "USCG App. No. 162.015-3 (plus assigned number)" (for backfire flame arresters); "USCG App. No. 162.015-4 (plus assigned number) Engine Air and Fuel Induction Systems"; and "USCG App. No. 162.015-5 (plus assigned number) Engine Air Induction System"; respectively.

TERMINATION OF APPROVALS UNDER OLD SPECIFICATION

12. On January 1, 1966, all approvals issued prior to January 1, 1965, are to be terminated except in the case of those backfire flame control installations which

comply with the proposed new specification in all respects, in which case the approval will be issued for the usual 5-year period. Previously approved flame arresters may be continued in service as long as they are in good, serviceable condition.

XJ—PACKAGED BOILERS

13. The authority to prescribe regulations concerning boilers is set forth generally in R.S. 4405, as amended, and 4462, as amended, while other provisions of law interpreted or applied are in R.S. 4417a, as amended, 4418, as amended, 4433, as amended, 4488, as amended, 4491, as amended, sections 1 and 2 of the Act of June 20, 1936, as amended, section 3 of the Act of June 12, 1940, as amended, section 3 of the Act of August 9, 1954, and section 3 of the Act of May 10, 1956; 46 U.S.C. 375, 416, 391a, 392, 411, 481, 489, 367, 1333, 390b, and 50 U.S.C. 198; and Executive Order 10402 17 F.R. 9917, 3 CFR 1952 Supp. The delegation of authority for the Commandant, U.S. Coast Guard to prescribe regulations is in Treasury Department Orders 120, July 31, 1950, 15 F.R. 6521; 167–14, Nov. 26, 1954, 19 F.R. 8026; 167–20, June 18, 1956, 21 F.R. 4894; CGFR 56–28, July 24, 1956, 21 F.R. 5659; and 167–38, Oct. 26, 1959, 24 F.R. 8857.

162.026—BOILERS, AUXILIARY, AUTOMATICALLY CONTROLLED, PACKAGED

14. The proposed changes to the specification regarding packaged boilers in 46 CFR 162.026–1 to 162.026–17, inclusive, are intended to improve the overall arrangement, to better define the various controls that are currently being provided on package boilers, and to modify the sequence of operation to more nearly comply with current industrial standards pertaining to sequencing. These proposed changes also define the predominant combustion control systems now being furnished on packaged boilers. The proposed changes include new requirements covering ignition transformers, fuel pumps, and strainers.

ITEM XI—PRESSURE VESSELS

15. The authority to prescribe regulations concerning pressure vessels is set forth generally in R.S. 4405, as amended, and 4462, as amended, while other provisions of law interpreted or applied are in R.S. 4417a, as amended, 4418, as amended, 4433, as amended, 4472, as amended, 4488, as amended, 4491, as amended, sections 1 and 2 of the Act of June 20, 1936, as amended, section 3 of the Act of June 12, 1940, as amended, section 3 of the Act of August 9, 1954, and section 3 of the Act of May 10, 1956; 46 U.S.C. 375, 416, 391a, 392, 411, 170, 481, 489, 367, 1333, 390b, and 50 U.S.C. 198; and Executive Order 10402, 17 F.R. 9917, 3 CFR 1952 Supp. The delegation of authority for the Commandant, U.S. Coast Guard, to prescribe regulations is in Treasury Department Orders 120, July 31, 1950, 15 F.R. 6521; 167–14, Nov. 26, 1954, 19 F.R. 8026; 167–20, June 18, 1956, 21 F.R. 4894; CGFR 56–28, July 24, 1956, 21 F.R. 5659; and 167–38, Oct. 26, 1959, 24 F.R. 8857.

XIa—ACCEPTANCE OF ADDITIONAL COPPER NICKEL ALLOY MATERIAL FOR PRESSURE VESSELS

16. The proposed changes to 46 CFR 51.67–1 and 54.03–10(c) will revise Tables 51.67–1 and 54.03–10(d) to allow the use of copper nickel alloy materials meeting the American Society of Testing Materials (ASTM) specification B–402 for the pressure parts of vessels. This proposal is in agreement with the latest revisions to the American Society of Mechanical Engineers' Code and the ASTM Standards.

XIb—HYDROSTATIC TESTING OF UNFIRED PRESSURE VESSELS

17. The proposed changes to 46 CFR 61.25–15, regarding hydrostatic test of welded and brazed pressure vessels, modify the hydrostatic testing of unfired pressure vessels. These changes are in conformance with the latest knowledge and experience of industry and the requirements of the American Society of Mechanical Engineers' Boiler and Pressure Vessel Code.

18. It is proposed not to require hammer testing during any hydrostatic test. Hammer testing does not improve the reliability of a hydrostatic test and may weaken the pressure vessel. The method of calculating the hydrostatic test pressure that is proposed is based on the maximum allowable pressure and corrected for the difference in material strength between the operating and test temperatures.

19. In order to have standardization of wording throughout the regulations, it is also proposed to amend 46 CFR 52.70–25(b), 52.70–50(a), 53.03–75(e), 54.03–1(b), 54.03–27(b), 54.07–25(b), 55.13–10, 55.17–30(c), 61.40–1(a), 61.40–5 in the Marine Engineering Regulations. Additionally, it is proposed to revise the marking requirements in the Cargo and Miscellaneous Vessel Regulations in 46 CFR 98.20–15(a), 98.25–15(a), and 98.25–95(b) to be consistent with new nomenclature in the pressure vessel regulations in 46 CFR Parts 52 to 61, inclusive. Cryogenic vessels do not necessarily have their maximum allowable pressures equal to their design pressures. In conventional vessels the design and maximum allowable pressures are equal in practically every case.

Dated: January 27, 1965.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 65–1580; Filed, Feb. 12, 1965; 8:47 a.m.]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Treatment of Blocked Earnings and Profits

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR, Washington, D.C., 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 964(b) of the Internal Revenue Code of 1954 to section 12(a) of the Revenue Act of 1962 (76 Stat. 1006), such regulations are amended as follows, effective with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end:

Section 1.964–2 is added immediately after § 1.964–1 and reads as follows:

§ 1.964–2 Treatment of blocked earnings and profits.

(a) *General rule.* If, in accordance with paragraph (d) of this section, it is established to the satisfaction of the district director that any amount of the earnings and profits of a controlled foreign corporation for the taxable year (determined under § 1.964–1) was subject to a currency or other restriction or limitation imposed under the laws of any foreign country (within the meaning of paragraph (b) of this section) on its distribution to United States shareholders who own (within the meaning of section 958(a)) stock of such corporation, such amount shall not be included in earnings and profits for purposes of sections 952, 955, and 956 for such taxable year. For rules governing the treatment of amounts with respect to which such restriction or limitation is removed, see paragraph (c) of this section.

(b) *Rules of application.* For purposes of paragraph (a) of this section—

(1) *Period of restriction or limitation.* An amount of earnings and profits of a controlled foreign corporation for any taxable year shall not be included in earnings and profits for purposes of sections 952, 955, and 956 only if such amount of earnings and profits is subject to a currency or other restriction or limitation (within the meaning of sub-

paragraph (2) of this paragraph) throughout the 150-day period beginning immediately after the close of such taxable year.

(2) *Restriction or limitation defined.* Whether earnings and profits of a controlled foreign corporation are subject to a currency or other restriction or limitation imposed under the laws of a foreign country must be determined on the basis of all the facts and circumstances in each case. Generally, such a restriction or limitation must prevent—

(i) The ready conversion (directly or indirectly) of such currency into United States dollars or into other money or property which is readily convertible into United States dollars; or

(ii) The distribution of dividends by such corporation to its United States shareholders.

For purposes of subdivision (ii) of this subparagraph, if a United States shareholder owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of ownership of section 958(b), 80 percent or more of the total combined voting power of all classes of stock of a foreign corporation in a chain of ownership described in section 958(a), the distribution of dividends by such corporation to such shareholder will not be considered prevented solely by reason of the existence of a currency or other restriction or limitation at an intermediate tier in such chain.

(3) *Foreign laws.* A currency or other restriction or limitation on the distribution of earnings and profits may be imposed in a foreign country by express statutory provisions, executive orders or decrees, rules or regulations of a governmental agency, court decisions, the actions of appropriate officials who are acting within the scope of their authority, or by any similar official action. A currency restriction will not be considered to exist unless export restrictions are also imposed which prevent the exportation of property which could be readily converted into United States dollars.

(4) *Voluntary restriction or limitation.* A currency or other restriction or limitation arising from the voluntary act of the controlled foreign corporation or its United States shareholders during a taxable year beginning after December 31, 1962, will not be taken into account. For example, if a controlled foreign corporation—

(i) Issues a stock dividend which has the effect of capitalizing earnings and profits;

(ii) Elects to restrict its earnings and profits or to make certain investments as a means of avoiding current tax or securing a reduced rate of tax; or

(iii) Allocates earnings and profits to an optional or arbitrary reserve;

such restriction is voluntary and will not be taken into account.

(5) *Treatment of earnings and profits in cases of certain mandatory reserves*—(i) *In general.* If a controlled foreign corporation is required under the laws of a foreign country to establish a reserve out of earnings and profits for the taxable year, such earnings and profits shall be considered subject to a restriction or limitation by reason of such requirement only to the extent that the amount required to be included in such reserve at the close of the taxable year exceeds the accumulated earnings and profits (determined in accordance with subdivision (ii) of this subparagraph) of such corporation at the close of the preceding taxable year.

(ii) *Determination of earnings and profits.* For purposes of determining the accumulated earnings and profits of a controlled foreign corporation under subdivision (i) of this subparagraph, such earnings and profits shall not include any amounts which are attributable to—

(*a*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder under section 951(a) and have not been distributed;

(*b*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such foreign corporation under section 551(b) and have not been distributed; or

(*c*) Amounts which become subject to a voluntary restriction or limitation (within the meaning of subparagraph (4) of this paragraph) during a taxable year beginning before January 1, 1963.

The rules of this subdivision apply only in determining the accumulated earnings and profits of a controlled foreign corporation for purposes of this subparagraph. See section 959 and the regulations thereunder for limitations on the exclusion from gross income of previously taxed earnings and profits.

(6) *Exhaustion of procedures for distributing earnings and profits.* Earnings and profits of a controlled foreign corporation for a taxable year will not be considered subject to a currency or other restriction or limitation on their distribution unless the United States shareholders of such corporation demonstrate either that the available procedures for distributing such earnings and profits have been exhausted or that the use of such procedures will be futile. As a general rule, such procedures will be considered to have been exhausted if the foreign corporation applies for dollars (or foreign currency readily convertible into dollars) at the appropriate rate of exchange and complies with the applicable laws and regulations governing the acquisition and transfer of such currency including submission of the necessary documentation to the exchange authority. The fact that available procedures for distributing earnings and profits were exhausted without success with respect to a prior year is not, of itself, sufficient evidence that such procedures would not be successful with respect to the current taxable year.

(c) *Removal of restriction or limitation*—(1) *In general.* If, during any taxable year, a currency or other restriction or limitation (within the meaning of paragraph (b) of this section) imposed under the laws of a foreign country on the distribution of earnings and profits of a controlled foreign corporation to its United States shareholders is removed—

(i) *Treatment of deferred income.* Each United States shareholder of such corporation on the last day in such year that such corporation is a controlled foreign corporation shall include in his gross income for such taxable year the amounts attributable to such earnings and profits which would have been includible in his gross income under section 951(a) for prior taxable years but for the existence of the currency or other restriction or limitation except that—

(*a*) The amounts included under this subdivision (i) shall not exceed his pro rata share of the earnings and profits upon which the restriction was removed determined on the basis of his stock ownership on the last day of the preceding taxable year, and

(*b*) The amounts included under this subdivision (i) shall not exceed his pro rata share of the applicable limitations of paragraph (c) of § 1.952-1, paragraph (b)(2) of § 1.955-1, or paragraph (b) of § 1.956-1, determined as of the last day of the preceding taxable year, taking into account the provisions of subdivision (ii) of this subparagraph.

(ii) *Treatment of earnings and profits.* For purposes of sections 952, 955, and 956, the earnings and profits which are no longer subject to a currency or other restriction or limitation shall be treated as included in the corporation's earnings and profits for the year in which such earnings and profits were derived.

Amounts with respect to which a currency or other restriction or limitation is removed shall be translated into United States dollars at the appropriate exchange rate for the translation period during which such currency or other restriction or limitation is removed. See paragraph (d) of § 1.964-1.

(2) *Removal of restriction or limitation defined.* An amount of earnings and profits shall be considered no longer subject to a limitation or restriction if and to the extent that—

(i) Money or property in such foreign country is readily convertible into United States dollars or into other money or property which is readily convertible into United States dollars;

(ii) Nothwithstanding the existence of any laws or regulations forbidding the exchange of money or property into United States dollars, conversion is actually made into other money or property which is readily convertible into United States dollars; or

(iii) A mandatory reserve requirement (described in paragraph (b)(5) of this section) is removed either by a change in law of the foreign country imposing such requirement or by an accumulation of earnings and profits not subject to such requirement.

(3) *Distribution in foreign country.* If, during any taxable year, earnings and profits previously subject to a currency or other restriction or limitation are distributed in a foreign country to one or more United States shareholders of a controlled foreign corporation directly, or indirectly through a chain of ownership described in section 958(a), such

earnings and profits shall be considered no longer subject to a restriction or limitation. However, distributed amounts may be excluded from such shareholder's gross income for the taxable year of receipt if such shareholder elects a method of accounting under which the reporting of blocked foreign income is deferred until the income ceases to be blocked.

(4) *Source of distribution*. If, during any taxable year, earnings and profits previously subject to a currency or other restriction or limitation is distributed to one or more United States shareholders of a controlled foreign corporation directly, or indirectly through a chain of ownership described in section 958(a), the source of such distribution shall be determined in accordance with the rules of § 1.959-3.

(5) *Illustration*. The provisions of this paragraph may be illustrated by the following example:

Example. (a) M, a United States person, owns all of the only class of stock of A Corporation, a foreign corporation incorporated under the laws of foreign country X on January 1, 1963. Both M and A Corporations use the calendar year as a taxable year and A Corporation is a controlled foreign corporation throughout the period here involved.

(b) During 1963, A Corporation derives income of $100,000 all of which is subpart F income and has earnings and profits of $100,000. Under the laws of X Country, currency cannot be exported without a license. During the 150-day period following the close of 1963, A Corporation can obtain a license to distribute only an amount equivalent to $10,000. M must include $10,000 in his gross income for 1963 under section 951(a)(1)(A)(i) and $90,000 of A Corporation's earnings and profits for 1963 are not taken into account for purposes of sections 952, 955, and 956.

(c) During 1964, A Corporation has no income and no earnings and profits. On June 1, 1964, A Corporation converts an amount equivalent to $20,000 into property which is readily convertible into United States dollars but does not distribute such amount. Corporation A must include $20,000 in its earnings and profits for 1963 for purposes of sections 952, 955, and 956. M must include $20,000 in his gross income for 1964.

(d) During 1965, A Corporation has no income and no earnings and profits. On December 15, 1965, A Corporation distributes an amount equivalent to $15,000 to M in X Country. Neither M nor A Corporation can obtain a license to export currency from X Country. In his return for the taxable year 1965, M elects a method of accounting under which the reporting of blocked foreign income is deferred until the income ceases to be blocked. Accordingly, M does not include the $15,000 in his gross income for 1965.

(e) During 1966, A Corporation has no income and no earnings and profits. On February 1, 1966, notwithstanding the laws and regulations of X Country which forbid the exchange of X Country's currency into United States dollars, M converts an amount equivalent to $15,000 into a currency which is readily convertible into United States dollars. Since the income has ceased to be blocked, M must include $15,000 in his gross income for 1966.

(d) *Manner of claiming existence of restriction or limitation on distribution of earnings and profits*. A United States shareholder claiming that an amount of the earnings and profits of a controlled foreign corporation for the taxable year was subject to a currency or other restriction or limitation imposed under the laws of a foreign country on its distribution shall file a statement with his return for the taxable year with or within which the taxable year of the foreign corporation ends which shall include—

(1) The name and address of the foreign corporation,

(2) A description of the classes of stock of the foreign corporation and a statement of the number of shares of each class owned (within the meaning of section 958(a)) or considered as owned (by applying the rules of ownership of section 958(b)) by the United States shareholder,

(3) A description of the currency or other restriction or limitation on the distribution of earnings and profits,

(4) The total earnings and profits of the foreign corporation for the taxable year and the United States shareholder's pro rata share of such total earnings and profits,

(5) The United States shareholder's pro rata share of the amount of earnings and profits subject to a restriction or limitation on distribution,

(6) The amounts which would be includible in the United States shareholder's gross income under section 951 (a) but for the existence of the currency or other restriction or limitation,

(7) A description of the available procedures for distributing earnings and profits and a statement setting forth the steps taken to exhaust such procedures or a statement setting forth the reasons that the use of such procedures would be futile, and

(8) The amount of distributions made in a foreign country and a statement as to whether a method of accounting has been elected under which the reporting of blocked income is deferred until such income ceases to be blocked, including an identification of the taxable year and place of filing of such election.

In addition, such United States shareholder shall furnish to the district director such other information as he may require to verify the status of a currency or other restriction or limitation.

[F.R. Doc. 65-1574; Filed, Feb. 12, 1965; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Part 362]

ENFORCEMENT OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Proposed Interpretation With Respect to Claims for Safety and Nontoxicity on Labeling of Economic Poisons

Certain safety claims have appeared on labeling of economic poisons in a manner which may be misleading to the public as to safety of the product under all conditions of use. The use of such claims has been restricted by the recently amended regulations for the enforcement of the act. In order that registrants and applicants for registration may be better informed regarding the requirements of the recently amended regulations the Department of Agriculture believes that an interpretation with respect to claims for safety and nontoxicity on labeling of economic poisons should be issued.

Therefore, notice is hereby given, pursuant to the regulations for the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act (7 CFR 362.1 et seq.), that the Department is considering the publication as §362.122 of Part 362, Title 7, Code of Federal Regulations, of Interpretation 24 to read as follows:

§ 362.122 Interpretation with respect to claims for safety and nontoxicity on labeling of economic poisons.

(a) *Requirements of the act and regulations*. The act provides that an economic poison or device is misbranded if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular (7 U.S.C. Supp. V 135(z)(1)). Section 362.14(a) (5) of the regulations (7 CFR 362.14(a) (5)) limits the use of claims for safety or nontoxicity to those products which are determined by the Director to be nontoxic to humans and pets.

(b) *Economic poisons not permitted to have any claims for safety or nontoxicity*. (1) No claim as to safety or nontoxicity to man or animals shall be made for any economic poison that is required by Interpretation 18 to have any precautionary labeling or that is otherwise required to have any precautionary labeling as to flammability, explosion, skin or eye irritation, or any other such caution. (2) No new economic poison will be permitted to bear claims of safety or nontoxicity until several years' practical experience has shown that such claims are warranted.

(c) *Economic poisons permitted to bear limited claims for safety or nontoxicity*. An economic poison may have such labeling claims as "non-toxic to humans and pets" when: (1) use of such claims is not precluded by paragraph (b) of this section, and (2) such claims are supported by (i) Data on acute toxicity, sufficient to place the specific product, including active and inert ingredients, in toxicity category 4 as prescribed in Interpretation 18, (ii) Subacute and chronic toxicity data on test animals adequate to demonstrate that the margin of safety between the dosages causing detectable effects and those recommended for effective use would be at least 100-fold, and (iii) Human and/or animal experience data demonstrating that humans and/or animals are not likely to be injured under any reasonably foreseeable conditions.

(d) *Prominence of claims for safety or nontoxicity*. Claims for safety or nontoxicity permitted by paragraph (c) of this section may appear anywhere in the labeling provided they do not appear in such a manner as to be misleading to the public. They must be printed in type of a size and style bearing a reasonable relationship to other print on that part of the label on which they appear and comply with the following maximum type sizes.

Size of label panel	*Maximum type size permitted*
Less than 60 square inches	12 point.
60 square inches and above	18 point.

Repetition of claims for safety or nontoxicity permitted by paragraph (c) of this section shall be held to a minimum and will not be permitted when, in the opinion of the Director, such repetition is likely to encourage misuse of the product or tend to crowd or obscure other information required by the act and regulations to appear on the labeling.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director, Pesticides Regulation Division, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C., 20250, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business.

Done this 10th day of February, 1965.

JUSTUS C. WARD,
Director, Pesticides Regulation Division, Agricultural Research Service.

[F.R. Doc. 65-1592; Filed, Feb. 12, 1965; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[21 CFR Part 121]

FOOD ADDITIVES

Bacitracin, Zinc Bacitracin, Bacitracin Methylene Disalicylate, Chlortetracycline, Oxytetracycline, Hygromycin B; Indications for Use

Upon consideration of the information available to the Food and Drug Administration concerning the similarity in the usefulness, purposes, and manner of use of various antibiotics for the prevention of early mortality of chicks due to susceptible organisms and during periods of stress, the Commissioner of Food and Drugs has determined that it is in the public interest to revise various regulations dealing with this matter so that label claims for such uses will be made in a uniform manner. Therefore pursuant to the authority vested in the Secretary of Health, Education, and Welfare (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and delegated to the Commissioner by the Secretary (21 CFR 2.90), it is proposed to amend the food additive regulations in Subpart C in the following respects:

1. It is proposed to amend § 121.208 *Chlortetracycline* by renumbering the existing line items 1–12 in paragraph (d), Table 1, as 2–13, inclusive; by inserting in Table 1 a new line item designated "1.", reading as indicated below; and by changing the language in the "Indications for use" column under redesignated line items 2 and 5 to read as set forth. New item 1 and redesignated items 2 and 5 will read:

TABLE 1—CHLORTETRACYCLINE IN COMPLETE CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Chlortetracycline.	50–100			For chickens and turkeys: as chlortetracycline hydrochloride.	During times of stress, for prevention of diseases named in this section caused by organisms susceptible to the named levels of the chlortetracycline salt.
2. Chlortetracycline.	50–100			For chickens; as chlortetracycline hydrochloride.	Prevention of chronic respiratory disease (air-sac infection).
* * *	* * *	* * *	* * *	* * *	* * *
3. Chlortetracycline.	50–100			For turkeys; as chlortetracycline hydrochloride.	Prevention of infectious sinusitis, hexamitiasis.
* * *	* * *	* * *	* * *	* * *	* * *
5. Chlortetracycline.	50–100			For chicks; as chlortetracy-hydrochloride.	Prevention of early mortality of chicks due to organisms susceptible to chlortetracycline.

* * * * * * *

2. It is proposed to amend § 121.213 *Hygromycin B* so that the "Indications for use" column for item 1m. in paragraph (d), Table 1, will read:

TABLE 1—HYGROMYCIN B IN COMPLETE CHICKEN FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. * * *					
m. Hygromycin B.	8.0–12.0	Bacitracin..	100	For chicks, in starter ration: as bacitracin, bacitracin methylene disalicylate, or zinc bacitracin.	Prevention of early mortality of chicks due to organisms susceptible to the named bacitracin compound.

* * * * * * *

3. It is proposed to amend § 121.232 *Bacitracin* so that the "Indications for use" column for items 7.1 and 7.2 will read as follows:

TABLE 1—BACITRACIN IN COMPLETE CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
7.1 Bacitracin....	100–500			For chicks; in starter ration; as bacitracin.	Prevention of early mortality of chicks due to organisms susceptible to bacitracin.
7.2 Bacitracin+penicillin.	100–500			For chicks; in starter ration; 100–500 gm. of combination, containing not less than 50 percent nor more than 75 percent of bacitracin except that it contains not more than 125 gm. of penicillin; as procaine penicillin+bacitracin.	Prevention of early mortality of chicks due to organisms susceptible to bacitracin and penicillin.

* * * * * * *

4. It is proposed to amend § 121.233 *Zinc Bacitracin* by changing items 7.1 and 7.2 in Table 1, paragraph (d) to read:

TABLE 1—ZINC BACITRACIN IN COMPLETE CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
7.1 Bacitracin....	100–500.			For chicks; in starter ration; as zinc bacitracin.	Prevention of early mortality of chicks due to organisms susceptible to zinc bacitracin.
7.2 Bacitracin+penicillin.	100–500			For chicks; in strater ration; 100–500 gm. of combination, containing not less than 50 percent nor more than 75 percent of bacitracin except that it contains not more than 125 gm. of pencillin; as procaine penicillin+zinc bacitracin.	Prevention of early mortality of chicks due to organisms susceptible to zinc bacitracin and penicillin.

* * * * * * *

5. It is proposed to amend § 121.251 *Oxytetracycline* by changing items 1 and 4 in Table 1, paragraph (d) to read:

TABLE 1—OXYTETRACYCLINE IN COMPLETE CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Oxytetracycline.	50	....	....	For chickens and turkeys; as the mono-alkyl (C_8-C_{18}) trimethyl ammonium salt of oxytetracycline.	During times of stress, for prevention of diseases named in this section caused by organisms susceptible to the named levels of the oxytetracycline salt.
* * *	* * *	* * *	* * *	* * *	* * *
4. Oxytetracycline.	50–100	....	....	For chicks (first 2 weeks of life); for poults (first 4 weeks of life); as the mono-alkyl (C_8-C_{18}) trimethyl ammonium salt of oxytetracycline.	Prevention of early mortality of chicks and poults due to organisms susceptible to the oxytetracycline salt.
* * *	* * *	* * *	* * *	* * *	* * *

6. It is proposed to amend § 121.252 *Bacitracin methylene disalicylate* by changing items 6.1 and 6.2 in Table 1 of paragraph (d) to read:

TABLE 1—BACITRACIN METHYLENE DISALICYLATE IN COMPLETE CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
6.1. Bacitracin....	100	....	....	For chicks; in starter ration; as bacitracin methylene disalicylate.	Prevention of early mortality of chicks due to organisms susceptible to the bacitracin methylene disalicylate salt.
6.2. Bacitracin + penicillin.	100	....	....	For chicks; in starter ration; 100 gm. of combination; 75 gm. of bacitracin plus 25 gm. of penicillin; as bacitracin methylene disalicylate plus procaine penicillin.	Prevention of early mortality of chicks due to organisms susceptible to bacitracin methylene disalicylate and penicillin.

* * * * * * *

All interested persons are invited to submit written views and comments on this proposal, preferably in quintuplicate, within 30 days from the date of the publication of this notice in the FEDERAL REGISTER. Such views and comments may be accompanied by a memorandum or brief in support thereof and should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201.

Dated: February 8, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-1543; Filed, Feb. 12, 1965; 8:45 a.m.]

Notices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

SUN OIL CO.

Notice of Filing of Petitions for Food Additive Noncrystalline Polypropylene

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that petitions (FAPs 5B1602, 5B1603) have been filed by the Sun Oil Co., 1608 Walnut Street, Philadelphia, Pa., 19103, proposing the issuance of a regulation to provide for the safe use of noncrystalline polypropylene in food-contact coatings, and as a plasticizer for polypropylene.

Dated: February 8, 1965.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 65-1582; Filed, Feb. 12, 1965; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

February Sales List

Notice to buyers. Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669) and subject to the conditions stated therein as well as herein, the commodities listed below are available for sale and, where noted, for redemption of payment-in-kind certificates on the price basis set forth.

The prices at which Commodity Credit Corporation commodity holdings are available for sale during February 1965 are as announced by the U.S. Department of Agriculture. The following commodities are available: Butter, cheddar cheese, nonfat dry milk, dry beans, cotton (upland and extra long staple), wheat, corn, oats, barley, rye, rice, grain sorghum, peanuts, flax, and soybeans and linseed oil.

There is no change in the commodities available from the January list, except that shelled Virginia type peanuts are being offered for unrestricted use sale.

Corn, oats, barley or grain sorghum, as determined by CCC, will be sold for unrestricted use for "Dealers' Certificates" issued under the emergency livestock feed program. Grain delivered against such certificates will be sold at the applicable current market price, determined by CCC.

In the following listing of commodities and sales prices or method of sales, unrestricted use permits either domestic or export use and export requires export only.

The CCC Monthly Sales List, which varies from month to month as additional commodities become available or commodities formerly available are dropped, is designed to aid in moving CCC's inventories into domestic or export use through regular commercial channels.

If it becomes necessary during the month to amend this list in any material way—such as by the removal or addition of a commodity in which there is general interest or by a significant change in price or method of sale—an announcement of the change will be sent to all persons currently receiving the list by mail from Washington. To be put on this mailing list, address: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C., 20250.

Interest rates per annum under the CCC Export Credit Sales Program for February 1965 are 4½ percent for periods up to and including 12 months, and 5 percent for periods from over 12 months up to a maximum of 36 months. All commodities currently offered for sale by CCC, plus tobacco from CCC loan stocks, are available for export sale under the CCC Export Credit Sales Program as provided under specific commodity listings.

The following commodities are available for programming under Title IV, P.L. 480, private trade agreements: Wheat, corn, rye, rice, grain sorghum, upland and extra long staple cotton, tobacco from CCC loan stocks, butter, cheese, and nonfat dry milk. In addition, other surplus agricultural commodities are also eligible for Title IV programming. A list of all commodities available under this program, and current information on interest rates and other phases of the program are being sent separately to recipients of the CCC Monthly Sales List.

The following commodities are currently available for barter: Barley, cotton, tobacco, wheat, corn, and grain sorghum. (In addition, free market stocks of cottonseed and soybean oils are eligible for barter programming.) This list is subject to change from time to time.

The CCC will entertain offers from responsible buyers for the purchase of any commodity on the current list. Offers accepted by CCC will be subject to the terms and conditions prescribed by the Corporation. These terms include payment by cash or irrevocable letter of credit before delivery of the commodity, and the conditions require removal of the commodity from CCC stocks within a reasonable period of time. Where conditions of sale for export differ from those for domestic sale, proof of exportation is also required, and the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchases from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Applicable announcements containing all terms and conditions of sale will be furnished upon request. For easy reference a number of these announcements are identified by code number in the following list. Interested persons are invited to communicate with the Agricultural Stabilization and Conservation Service, USDA, Washington, D.C., 20250, with respect to all commodities or—for specified commodities—within the designated ASCS Commodity Office.

Commodity Credit Corporation reserves the right to amend, from time to time, any of its announcements. Such amendments shall be applicable to and be made a part of the sale contracts thereafter entered into.

CCC reserves the right to reject any or all offers placed with it for the purchase of commodities pursuant to such announcements.

CCC reserves the right to refuse to consider an offer, if CCC does not have adequate information of financial responsibility of the offerer to meet contract obligations of the type contemplated in this announcement. If a prospective offerer is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named in the invitation prior to making an offer, or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only upon submission by offerer of a certified or cashier's check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offerer will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of performance bond or other security acceptable to CCC.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and therefore, generally, they do not appear in the monthly Sales List.

On sales for which the buyer is required to submit proof to CCC of exportation the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal, or resident agent upon whom service of judicial process may be had.

Prospective buyers for export should note that generally, sales to United States Government agencies, with only minor exceptions will constitute domestic unrestricted use of the commodity.

Commodity Credit Corporation reserves the right, before making any sales, to define or limit export areas.

Notice to exporters. The Department of Commerce, Bureau of International Commerce, pursuant to regulations under the Export Control Act of 1949, prohibits the exportation or re-exportation by anyone of any commodities (except absorbent cotton and sterilized gauze and bandages with respect to Cuba only) under this program to Cuba, the Soviet Bloc, or Communist-controlled area of the Far East including Communist China, North Korea and the Communist-controlled area of Vietnam, except under validated license issued by the U.S. Department of Commerce, Bureau of International Commerce.

These regulations generally require that exporters, in or in connection with their contracts with foreign purchasers, where the contract involves $10,000 or more and exportation is to be made to a Group R country, obtain from the foreign purchaser a written acknowledgment of his understanding of (1) U.S. Commerce Department prohibitions (Comprehensive Export Schedule, §§ 371.4 and 371.8) against sales or resale for re-export of said commodities, or any part thereof, without express Commerce Department authorization, to the Soviet Bloc, Communist China, North Korea or the Communist-controlled area of Vietnam or to Cuba, and (2) the sanction of denial of future U.S. export privileges that may be imposed for violation of the Commerce Department regulations. Exporters who have a continuing and regular relationship with a foreign purchaser may obtain a blanket acknowledgment from such purchaser covering all transactions involving surplus agricultural commodities and manufactures thereof purchased from CCC or subsidized for export by the Secretary of Agriculture or CCC. Where commodities are to be exported by a party other than the original purchaser of the commodities from the CCC the original purchaser should inform the exporter in writing of the requirements for obtaining the signed acknowledgment from the foreign purchaser.

For all exportations, one of the destination control statements specified in Commerce Department Regulations (Comprehensive Export Schedule § 379.10(c)) is required to be placed on all copies of the shipper's export declaration, all copies of the bill of lading, and all copies of the commercial invoices. For additional information as to which destination control statement to use, the exporter should communicate with the Bureau of International Commerce or one of the field offices of the Department of Commerce.

Exporters should consult the applicable Commerce Department regulations for more detailed information if desired and for any changes that may be made therein.

<table>
<tr><th>Commodity</th><th>Sales price or method of sale</th></tr>
<tr><td>Barley, bulk</td><td>
Unrestricted use:
A. Redemption of domestic payment-in-kind certificates: Such CCC dispositions of barley as CCC may designate, will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which barley shall be valued for such dispositions shall be market price, as determined by CCC, but not less than the payment-in-kind formula price for such redemptions. Such formula price shall be the applicable 1964 price-support loan rate for the class, grade, and quality of the barley, plus the amount shown in C below applicable to the type of carrier involved.
B. General sales:
1. Storable: Such CCC dispositions of storable barley, as CCC may designate as general sales, will be made during the month at market price, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent [2] of the applicable 1964 price-support rate (published price-support loan rate plus 12 cents per bushel) for the class, grade, and quality of the barley, plus the amount shown in C below, applicable to the type of carrier involved. Examples of these formula minimum prices are shown in C below. If delivery is outside the area of production, applicable freight will be added. CCC will normally make general sales of barley when dispositions of such barley are not being made against domestic payment-in-kind certificates.
2. Nonstorable: At not less than market price as determined by CCC.
C. Markups and Agricultural Act of 1949 formula price examples (per bushel).
<table>
<tr><th colspan="2">Markup in cents received by</th><th colspan="2">Examples of in-store [1] formula minimum prices for No. 2 or better barley (ex-rail or barge in dollars)</th></tr>
<tr><th>Truck</th><th>Rail or barge</th><th>Terminal</th><th>General sales price</th></tr>
<tr><td>Cents
15½</td><td>Cents
10½</td><td>Minneapolis, Minn.
Kansas City, Mo.</td><td>$1.31¼
1.33½</td></tr>
</table>
D. Availability information: For information on CCC barley sales from bin sites, contact ASCS State or county offices. For information on the disposition of barley from other locations, contact the Evanston, Kansas City, Minneapolis, or Portland ASCS grain office listed at the end of this sales list.
Export:
(1) Under Announcement GR-368 (Revised Aug. 31, 1959), as amended, for feed grain export payment-in-kind program. (2) Under Announcement GR-212 (Revision 2, Jan. 9, 1961), for application to approved CCC barter and credit sales. CCC reserves the right to determine the class, grade, quality, and quantity to be made available for the sales under these announcements. The statutory minimum price referred to in the price adjustment provisions of these export sales announcements is 105% of the applicable price-support rate plus the adjustment referred to in above table. Sale is made at ·he applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at barter and credit sales prices.
Available: Evanston and Kansas City ASCS offices. Stocks in Duluth or Minneapolis will be available through the Minneapolis ASCS grain office.
</td></tr>
<tr><td>Corn, bulk</td><td>
Unrestricted use:
A. Redemption of domestic payment-in-kind certificates: Such CCC dispositions of corn, as CCC may designate, will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which corn shall be valued for such dispositions shall be the highest of (a) market price as determined by CCC, (b) a minimum price for such corn as determined by CCC and, (c) the payment-in-kind formula price for such redemptions. Such formula price shall be the applicable 1964 price-support loan rate for the class, grade, and quality of the corn, plus the amount shown in C below applicable for the storage point involved.
B. General sales:
1. Storable: Such CCC dispositions of storable corn, as CCC may designate as general sales, will be made during the month at market price, but not less thanthe Agricultural Act of 1949 formula minimum price for such sales which is 105 percent [2] of the applicable 1964 price-support rate (published price-support loan rate plus 15 cents per bushel) for the class, grade, and quality of the corn, plus the amount shown in C below, applicable to the storage point involved. Examples of these formula minimum prices are shown in C below. For corn in store at other than the point of production the freight from point of production to the present point of storage will also be added. CCC will normally make general sales of corn when dispositions of such corn are not being made against domestic payment-in-kind certificates.
2. Nonstorable: Such dispositions of nonstorable corn as CCC may designate as general sales will be made at not less than market price, as determined by CCC.
C. Markups and Agricultural Act of 1949 formula price examples (per bushel).
<table>
<tr><th colspan="2">Markup in cents in-store at</th><th colspan="2">Example of in-store [1] formula minimum prices for No. 2 yellow corn (14 percent M.T. and 2 percent F.M.) (ex-rail or barge in dollars)</th></tr>
<tr><th>Production point</th><th>Other points</th><th>Terminal</th><th>General sales price</th></tr>
<tr><td>Cents
6</td><td>Cents
7½</td><td>Minneapolis, Minn.[3]
Chicago, Ill.[4]</td><td>$1.40¾
1.59½</td></tr>
</table>
D. Availability information: For information on CCC corn sales and payments-in-kind from bin sites, contact ASCS State or county offices. For information on the disposition of corn from other locations, contact the Evanston, Kansas City, Minneapolis or Portland ASCS grain offices listed at the end of this sales list.
</td></tr>
</table>

See footnotes at end of table.

Commodity	Sales price or method of sale
Corn, bulk—(Continued)	Export: Under Announcement GR-212 (Revision 2, Jan. 9, 1961) for application to arrangements for barter and approved CCC credit, except that limited West Coast terminal stocks are available for export sale under Announcement GR-212 (barter, credit, and other designated sales) and under Announcement GR-368. CCC reserves the right to determine the class, grade, quality, and quantity to be made available for sale under any export announcement. The statutory minimum price referred to in the price adjustment provisions of Announcement GR-212 is 105% of the applicable price-support rate plus the adjustments referred to in subparagraph C above. Sale is made at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at credit and barter sales prices. Available: Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.
Cotton, upland	Unrestricted use: Competitive bid under the terms and conditions of Announcement NO-C-16, as amended (Sale of Upland Cotton for Unrestricted Use). Under this announcement, upland cotton acquired under price-support programs will be sold at the highest price offered but in no event at less than the higher of (a) 105 percent of the current loan rate for such cotton, plus reasonable carrying charges, or (b) the market price for such cotton, as determined by CCC. Competitive offers under the terms and conditions of Announcement NO-C-26 (Disposition of Upland Cotton—for exchange of PIK certificates or rights in the certificate pool for upland cotton), as amended. Upland cotton may be acquired at its domestic market price which shall be the highest price offered but not less than the minimum price determined by CCC. Export: 1. CCC Cash Sales for Export: Competitive bid under the terms and conditions of Announcement CN-EX-25 (Cotton Export Program—Sales—1964-66 Marketing Years) and NO-C-29 (Sale of Upland Cotton—Cotton Export Program—1964-66 Marketing Years), as amended. 2. CCC Credit Sales and Barter: Competitive bid under the terms and conditions of Announcement CN-EX-23 (Purchase of Upland Cotton for Export under the Export Credit Sales Program), Announcement CN-EX-24 (Acquisition of Upland Cotton for Export under the Barter Program), and Announcement NO-C-28 (Sale of Upland Cotton—CCC Credit and Barter Programs—1964-66 Marketing Years), as amended.
Cotton, extra long staple	Unrestricted use: Competitive bid under the terms and conditions of Announcements NO-C-6 (Revised July 22, 1960), as amended, and NO-C-10, as amended. Under these announcements extra long staple cotton (domestically grown) will be sold at the highest price offered but in no event at less than the higher of (a) 115 percent of the current support price for such cotton plus reasonable carrying charges, or (b) the domestic market price as determined by CCC. Export: 1. CCC Cash Sales for Export: Competitive bid under the terms and conditions of Announcements CN-EX-20 (Foreign-Grown Extra Long Staple Cotton Export Program) and NO-C-23 (Sale of Foreign-Grown Extra Long Staple Cotton). Competitive bid under the terms and conditions of Announcement CN-EX-22 (Extra Long Staple Cotton Export Program) and NO-C-27 (Sale of Extra Long Staple Cotton), as amended. 2. CCC Credit Sales and Barter: Competitive bid under the terms and conditions of Announcement CN-EX-26 (Purchase of Extra Long Staple Cotton for Export under the Export Credit Sales Program), Announcement CN-EX-27 (Acquisition of Extra Long Staple Cotton for Export under the Barter Program), and Announcement NO-C-27 (Sale of Extra Long Staple Cotton), as amended. Available: Sale of cotton will be made by the New Orleans ASCS Commodity Office and catalogs for upland cotton and extra long staple cotton showing quantities, qualities, and location may be obtained for a nominal fee from the office.
Dairy products	Sales are in carlots only in-store at storage location of products. Submission of offers: Submit offers to the Minneapolis ASCS Commodity Office.
Butter	Unrestricted use: Announced prices, under LD-29, as amended: 62.0 cents per pound—New York, Pennsylvania, New Jersey, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico. 61.25 cents per pound—Washington, Oregon, and California. All other States 61.0 cents per pound. Export: 1. Payment-in-kind under SM-8, as amended. 2. Competitive bid under Announcement MP-10, pursuant to invitations to bid to be issued by Minneapolis ASCS Commodity Office.
Cheddar cheese (standard moisture basis).	Unrestricted use: Announced prices under LD-29, as amended: 40.75 cents per pound—New York, Pennsylvania, New England, New Jersey, and other States bordering the Atlantic Ocean and Pacific Ocean and the Gulf of Mexico. All other States 39.75 cents per pound.

See footnotes at end of table.

Commodity	Sales price or method of sale
Cheddar cheese (standard moisture basis)—Continued	Export: Competitive bid under Announcement MP-10, pursuant to invitation to bid to be issued by Minneapolis ASCS Commodity Office. Announced prices under MP-10: Any cheese offered but not sold under the invitation to bid issued pursuant to MP-10 will be offered for sale through the following Monday noon at prices announced by press release from the Minneapolis ASCS Commodity Office each Tuesday.
Nonfat dry milk	Unrestricted use: Announced prices, under LD-29, as amended: Spray process, U.S. Extra Grade, 16.40 cents per pound. Export: 1. Payment-in-kind under SM-6, as amended. 2. Competitive bid, under MP-10, pursuant to invitation to bid to be issued by Minneapolis ASCS Commodity Office.
Dry edible beans (bagged)	Unrestricted use: Domestic market price but not less than the following minimum price per cwt. for U.S. No. 1 f.o.b. indicated points of production. Amount of paid-in-freight to be added as applicable. For other grades and locations adjust by applicable 1964 price support differentials.

Class	Price per cwt.	Area of production
Pea	$7.54	Michigan.
Great Northern	7.57	Denver rate basis.
Pinto	6.80	Denver rate basis.

Commodity	Sales price or method of sale
Flaxseed, bulk	Unrestricted use: Storable: Market price basis in store,[1] but not less than the applicable 1964 support price for the class, grade, and quality of flaxseed plus 14½ cents per bushel, and plus the respective amount shown below applicable to the type of carrier involved. If delivery is outside the area of production applicable freight will be added to the above.

Markup per bushel received by		Examples of minimum prices (ex-rail or barge)		
Truck	Rail or barge	Terminal	Class and grade	Price
Cents 18½	Cents 19½	Minneapolis, Minn.	No. 1	$3.38

Commodity	Sales price or method of sale
Flaxseed, bulk (cont.)	Nonstorable (as available): At not less than market price as determined by CCC through the Minneapolis Grain Merchandising ASCS office. Available: Through the Minneapolis Grain Merchandising ASCS office. Export: Under Announcement PS-GR-4 dispositions of flaxseed, as designated by CCC, will be in redemption of export PIK certificates at the domestic market price as determined by CCC. Available: Through the Minneapolis Grain Merchandising ASCS office.
Linseed oil, raw, bulk	Export: Under Announcement PS-GR-4 dispositions of raw linseed oil, as designated by CCC, will be in redemption of export PIK certificates at the domestic market price as determined by CCC. Available: Through the Minneapolis ASCS Commodity office.
Grain sorghum, bulk	Unrestricted use: A. Redemption of domestic payment-in-kind certificates: Such CCC dispositions of grain sorghum, as CCC may designate, will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which grain sorghum shall be valued for such dispositions shall be market price, but not less than the payment-in-kind formula price for such redemption. Such formula price shall be the applicable 1964 price-support loan rate for the class, grade and quality of the grain sorghum, plus the amount shown in C below applicable to the type of carrier involved.

Commodity	Sales price or method of sale

Grain sorghum, bulk—(Continued)

Unrestricted use—Continued

B. General sales:

1. Storable: Such CCC dispositions of storable grain sorghum, as CCC may designate as general sales, will be made during the month at market price, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent [2] of the applicable 1964 price support rate (published price support loan rate plus 23 cents per hundredweight) for the class, grade and quality of the grain sorghum, plus the amount shown in C below applicable to the type of carrier involved. If delivery is outside the area of production, applicable freight will be added. Examples of these formula minimum prices are shown in C below. CCC will normally make general sales of grain sorghum when dispositions of such grain sorghum are not being made against domestic payment-in-kind certificates.

2. Nonstorable: Such dispositions of nonstorable grain sorghum as CCC may designate as general sales will be made at not less than market price, as determined by CCC.

C. Markups and Agricultural Act of 1949 formula price examples (per hundredweight).

Markup in cents received by		Examples of in-store [1] formula minimum prices for No. 2 or better grain sorghum (ex-rail or barge in dollars)	
Truck	Rail or barge	Terminal	General sales price
Cents 28½	*Cents* 17½	Kansas City, Mo.	$2.65½

D. Availability information: For information on CCC grain sorghum sales and payments-in-kind from bin sites, contact ASCS State or county offices. For information on the disposition of grain sorghum from other locations, contact the Kansas City, Evanston, Portland or Minneapolis ASCS grain office listed at the end of this sales list.

Export:

(1) Under Announcement GR-212 (Revision 2, Jan. 9, 1961), for application to arrangements for barter, approved CCC credit and other designated sales. (2) Under Announcement GR-368 (Revised Aug. 31, 1959) as amended, for feed grain export payment-in-kind program. CCC stocks of grain sorghum in-store in California terminals are not available for sale under these export announcements. CCC reserves the right to determine the class, grade, quality, and quantity to be made available for sale under the announcements. The statutory minimum price referred to in the price adjustment provision of these export sales announcements is 105 percent of the applicable price support rate plus the adjustments referred to in subparagraph C above. Sale is made at the applicable export market price as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at credit and barter sales price.

Available: Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

Oats, bulk

Unrestricted use:

Storable: Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 105 percent [2] of the applicable 1964 price support rate for the class, grade, and quality of the oats plus the amount shown below applicable to the storage point involved. For oats in-store at other than the point of production, the freight from point other than the point of production, the freight from point of production to the present point of storage will also be added.

Per bushel markup in-store at		Examples of per bushel formula minimum prices basis in-store [1]		
Production point	Other points	Terminal	Grade and class	Price
Cents 10½	*Cents* 12	Chicago, Ill. [4]	No. 2 (XHWO)	$0.93½
		Minneapolis, Minn. [3]		.83¼

Available: At bin sites through ASCS county offices. At other locations through the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices.

Nonstorable (as available): At not less than the market price as determined by CCC. At bin sites through ASCS county offices. At other locations through the ASCS grain offices listed at the end of this sales list.

Export:

(1) Under Announcement GR-368 (Rev. Aug. 31, 1959) as amended, for feed grain export payment-in-kind programs. (2) Under Announcement GR-212 (Revision 2, Jan. 9, 1961) for application to approved CCC credit and other designated sales. Oats will not be sold for applications to Title I, or Title IV, P.L. 480 purchase authorizations or for barter. Sale is at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at credit sales prices.

Available: Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

Peanuts, shelled or unshelled (farmers stock as available).

Domestic for crushing or export: Competitive bids under CCC Peanut Announcement 1 (Revised Jan. 4, 1962), as amended and supplemented March 3, 1964.

Unrestricted use—Shelled Virginia type: U.S. Extra Large and U.S. Medium—1962 Crop. Competitive bids pursuant to Peanut Announcement 3 Revised at the higher of the market or minimum prices determined by CCC which reflects not less than 105 percent of the support price plus reasonable carrying charges.

Rice, rough

Unrestricted use: Market price but not less than 1964 loan rate plus 5 percent, plus 31 cents per cwt., basis in store.

Export: As milled or brown under Announcement GR-369, Revision II, Rice Export Program—Payment-in-kind, and under GR-379, Revision I, for approved credit sales.

Available

Prices, quantities, and varieties of rough rice available from Kansas City ASCS Commodity Office.

Rye, bulk

Unrestricted use:

Storable: Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 105 percent [2] of the applicable 1964 price-support rate for the class, grade, and quality of the grain plus the respective amount shown below applicable to the type of carrier involved. If delivery is outside the area of production applicable freight will be added to the above.

Per bushel markup received by		Examples of per bushel formula minimum price (ex-rail or barge)		
Truck	Rail or barge	Terminal	Class and grade	Price
Cents 16½	*Cents* 15½	Minneapolis, Minn.	No. 2 or better (or No. 3 on TW only).	$1.46½

Available: At bin sites through ASCS county offices. At other locations through the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices.

Nonstorable (as available): At not less than market price as determined by CCC through the ASCS grain offices listed at the end of this sales list.

Export:

(1) Under Announcement GR-368 (Revised Aug. 31, 1959) as amended, for feed grain export payment-in-kind program. (2) Under Announcement GR-212 (Revision 2, Jan. 9, 1961), for application to arrangements for approved CCC credit and other designated sales. Sale is made at the applicable export market price, as determined by CCC; export payment-in-kind rates, if any, are deducted in arriving at credit sales prices.

Available: Evanston, Kansas City, and Portland ASCS offices; also Minneapolis ASCS grain office for rye stored in terminals in Minneapolis.

Soybeans, bulk

Unrestricted use: Market price, but not less than the 1964 basic loan rate for No. 2 grade, basis point of production plus 19 cents per bushel. Market discounts for quality factors will be applied to the basic price to determine the actual minimum sales prices. If delivery is outside the area of production, applicable freight and out-elevation charges at country loading point and in-elevation charges at subterminal or terminal storage point will be added to the above price.

Available: At bin sites through ASCS county offices. At other locations through the Evanston, Kansas City and Minneapolis ASCS offices.

See footnotes at end of table.

Commodity	Sales price or method of sale
Wheat, bulk	Unrestricted use: A. Storable: The minimum price for such wheat shall be the highest of (a) market price as determined by CCC, (b) a minimum price for such wheat determined by CCC, or, (c) the Agricultural Act of 1949 formula price which is 105 percent of the applicable 1964 price support loan rate for the class, grade, and quality [3] of the wheat plus the amount shown in C below applicable to the type of carrier involved. If delivery is outside the area of production applicable freight will be added to such formula price. B. Nonstorable: Such dispositions of nonstorable wheat as CCC may designate will be made at not less than market price, as determined by CCC. C. Markups and formula minimum price examples.

Per bushel markup received by		Examples of per bushel formula minimum price basis in-store [1] ex-rail or barge		
Truck	Rail or barge	Terminal	Class and grade	Price
Cents 16½	*Cents* 10½	Chicago	No. 1 RW	$1.75½
		Kansas City	No. 1 HW	1.71½
		Portland	No. 1 SW	1.65½

D. Availability information: Storable Northern Spring Wheat sales for unrestricted use have been suspended until further notice. For information on CCC wheat sales from bin sites, contact ASCS State or county offices. For information on the disposition of wheat from other locations, contact the Evanston, Kansas City, Minneapolis, or Portland ASCS grain office listed at the end of this sales list.

Export:

(1) Under Announcement GR-345 (Revised Aug. 25, 1964) as amended for export under the wheat export payment-in-kind program except that (a) durum wheat will not be eligible for P.L. 480, Title 1 sales, and (b) hard winter wheat exports through West Coast ports will not be eligible for Title 1, P.L. 480 sales, except hard winter wheat of not more than 12 percent protein for sale to Taiwan and South Korea, (2) under Announcement GR-261 (Revision 2, Jan. 9, 1961, as amended and supplemented) for export as wheat and under Announcement GR-262 (Revision 2, Jan. 9, 1961, as amended) for export as flour for application under arrangements for barter and approved CCC credit sales only at prices determined daily. Hard winter wheat will not be sold through West Coast ports under Announcements GR-261 or GR-262, except hard winter wheat of not more than 12 percent protein for sale to Taiwan and South Korea.

Available: Evanston, Kansas City, Minneapolis and Portland ASCS grain offices. (See above for limited availability of hard winter wheat through west coast ports.)

[1] The delivery basis for these examples in "in-store", and market prices will be on the same basis. The formula price delivery basis for bin site sales will be f.o.b.

[2] To compute, multiply applicable support price by 1.05, round product up to nearest whole cent and add amount shown in the appropriate table and any applicable freight.

[3] On sales made on a protein basis, the loan rate shall be increased by the applicable market or loan bulletin protein premium for the protein content of the wheat, whichever is higher. On sales made on a sedimentation basis, the loan rate shall be increased by the applicable loan bulletin sedimentation premium for the sedimentation value of the wheat. On sales made on a combined sedimentation and protein basis, the loan rate shall be adjusted by the applicable loan bulletin sedimentation and protein premiums and discounts for the respective sedimentation value and protein contents of the wheat.

[4] Woodford County, Ill., origin.

[5] Redwood County, Minn., origin.

USDA AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE OFFICES

GRAIN OFFICES

Evanston ASCS Commodity Office, 2201 Howard Street, Evanston, Ill., 60202. Telephone: Long distance—University 9-0600 (Evanston Exchange). Local—Rogers Park 1-5000 (Chicago, Ill.).

Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, and West Virginia.

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Building, Minneapolis, Minn., 55415. Telephone: 334-2051.

Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

Kansas City ASCS Commodity Office, 8930 Ward Parkway (P.O. Box 205), Kansas City, Mo., 64141. Telephone: Emerson 1-0860.

Alabama, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Texas, and Wyoming.

Branch Office—Portland ASCS Branch Office, 1218 Southwest Washington Street, Portland, Oreg., 97205. Telephone: 226-3361.

Alaska, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington (Domestic and Export Sales), Arizona and California (Export sales only).

Branch Office—Berkeley ASCS Branch Office, 2020 Milvia Street, Berkeley, Calif., 94704. Telephone: Thornwall 1-5121.

Arizona and California (Domestic sales only).

PROCESSED COMMODITIES OFFICE—(ALL STATES)

Minneapolis ASCS Commodity Office, 6400 France Avenue, South Minneapolis, Minn., 55410. Telephone: 334-3200.

COTTON OFFICES—(ALL STATES)

New Orleans ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La., 70112. Telephone: 529-2411.

Representative of General Sales Manager, New York Area: Joseph Reidinger, 80 Lafayette Street, New York, N.Y., 10013. Telephone: Rector 2-8000.

Representative of General Sales Manager, West Coast Area: Callan B. Duffy, Appraisers' Building, Room 802, 630 Sansome Street, San Francisco, Calif., 94111. Telephone: 556-6185.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply Sec. 407, 63 Stat. 1066; Sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; Secs. 303, 306, and 307, 76 Stat. 614-617; 7 U.S.C. 1427; and 1441 (note))

Signed at Washington, D.C., on February 9, 1965.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 65-1564; Filed, Feb. 12, 1965; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 65-7]

JAMES RIVER

Closed to Navigation During Movement of USS Enterprise (CVA(N)-65)

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by Treasury Department Order 120 dated July 31, 1950 (15 F.R. 6521) and Executive Order 10173 as amended, by Executive Orders 10277 and 10352, I hereby affirm for publication in the FEDERAL REGISTER the order of O. C. Rohnke, Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SPECIAL NOTICE JAMES RIVER

Under the authority of Title II of the Espionage Act of June 15, 1917 (40 Stat. 220), as amended, and Executive Order 10173, as amended, I declare that from 8 a.m. e.s.t. to 12 p.m. on Saturday 13 February 1965 the following area is prohibited area and I order that it be closed to any person or vessel during the movement of "USS Enterprise" (CVA(N)-65) from Newport News Shipbuilding & Drydock Co., Shipway Number 11 to Pier Number 8 Newport News Shipbuilding & Drydock Co.

The waters of the James River, Norfolk-Newport News Harbor, Va., within the coordinates of latitude 36 degrees 59 minutes 35 seconds North, longitude 76 degrees 26 minutes 53 seconds West at the shoreline of Newport News, thence to a point 500 yards offshore at latitude 36 degrees 59 minutes 29 seconds North, longitude 76 degrees 27 minutes 14 seconds West, thence southeasterly to latitude 36 degrees 58 minutes 36 seconds North, 76 degrees 26 minutes 40 seconds West, and thence to the shoreline of Newport News at latitude 36 degrees 58 minutes 46 seconds North, longitude 76 degrees 26 minutes 11 seconds West.

No vessel may anchor in this prohibited area on the date indicated.

No person or vessel may remain in or enter this prohibited area while "USS Enterprise" (CVA(N)-65) is underway in the prohibited area.

The Captain of the Port, Norfolk-Newport News Area, Va. shall enforce this order.

The Captain of the Port may be assisted by employees and facilities of any state or political subdivision thereof or any Federal Agency.

For violation of this order Title II of the Espionage Act of June 15, 1917 (40 Stat. 220), as amended, provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercises of any power conferred by this title, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be fined not more than $10,000 or imprisoned not more than two years, or both."

"If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, or knowingly obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than $10,000."

Dated: February 11, 1965.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 65-1659; Filed, Feb. 12, 1965; 10:39 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. Sub-B-23]

JACOBSEN FISHING CO., INC.

Notice of Hearing

Jacobsen Fishing Co., Inc., Fairhaven, Mass., has applied for a fishing vessel construction differential subsidy to aid in the construction of a 96.5-foot overall steel vessel to engage in the fishery for groundfish, flounders, and lobsters.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act (P.L. 88-498) and Notice and Hearing on Subsidies (50 CFR Part 257) that a hearing in the above-entitled proceedings will be held on March 16, 1965, at 10 a.m. e.s.t. in Room 3356, Interior Building, 18th and C Streets NW., Washington, D.C. Any person desiring to intervene must file a petition of intervention with the Director, Bureau of Commercial Fisheries, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

DONALD L. MCKERNAN,
Director, Bureau of Commercial Fisheries.

FEBRUARY 9, 1965.

[F.R. Doc. 65-1581; Filed, Feb. 12, 1965; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Department Order 182; Organization and Function Supp.]

BUREAU OF INTERNATIONAL COMMERCE

Organization, Functions, and Delegations of Authority

The following Organization and Function Supplement to Department Order No. 182 of April 2, 1964, supersedes the Organization and Function Supplement of February 1, 1963, appearing at 28 F.R. 1074-1077 of February 2, 1963; Amendment No. 1 of April 30, 1963, appearing at 28 F.R. 4773 of May 11, 1963; and Amendment No. 2 of April 2, 1964, appearing at 29 F.R. 5413 of April 22, 1964.

SECTION 1. *Purpose.* .01 The purpose of this Organization and Function Supplement is to prescribe the organization and to assign functions within the Bureau of International Commerce.

SEC. 2. *Organization.* .01 The Bureau of International Commerce shall consist of the following organization units:

a. Office of the Director:
Director.
Deputy Director.
Assistant Director.
Executive Secretary to the Foreign-Trade Zones Board.
International Organizations Staff.

b. Office of Commercial and Financial Policy:
Foreign Business Practices Division.
Trade and Commercial Policy Division.
Transportation and Insurance Division.
International Finance Division.
International Resources Policy Division.

c. Office of International Regional Economics:
Africa Division.
American Republics Division.
European Division.
Far Eastern Division.
Near East-South Asia Division.
Sino-Soviet Division.
International Trade Analysis Division.

d. Office of International Investment:
Foreign Capital and Investment Services Division.
Investment Opportunities Division.
Investment Resources Division.

e. Office of International Trade Promotion:
Trade Missions Division.
Commercial Exhibits Division.
Exhibits Design Division.
U.S. National Exhibits Division.
Commercial Intelligence Division.

f. Office of Export Control:
Technical Data and Services Division.
Operations Division.
Policy Planning Division.
Investigations Division.
Scientific and Electronic Equipment Division.
Production Materials and Consumer Products Division.
Capital Goods Division.

SEC. 3. *Functions of organization units.* .01 The Director determines the policy, directs the programs, and is responsible for the conduct of all activities of the Bureau of International Commerce. In addition, the Director reviews and approves on behalf of the Secretary national program activities developed by the National Export Expansion Council for execution by the Regional Export Expansion Councils.

.02 The Deputy Director shall assist the Director in all matters affecting the Bureau of International Commerce and shall perform the duties of the Director during the latter's absence.

.03 The Assistant Director shall be the principal policy assistant to the Director and shall assist him in the development and execution of plans and programs for the Bureau.

.04 The Exective Secretary to the Foreign-Trade Zones Board shall (a) provide technical staff, and secretariat services for the Foreign-Trade Zones Board, of which the Secretary of Commerce is Chairman, and the Committee of Alternates of the Board of which the Assistant Secretary for Domestic and International Business is Chairman, and shall perform operations and administrative functions under the Foreign-Trade Zones Act of 1934, as amended, and regulations promulgated thereunder; and (b) encourage and assist business firms to employ the Foreign-Trade Zone concept in furtherance of the international trade objectives of the Bureau.

.05 The International Organizations Staff shall coordinate the Department's participation in activities of international economic organizations including the Organization for Economic Cooperation and Development (OECD) and the United Nations and its Specialized Agencies. This responsibility includes transmitting the views of the Department to the Department of State, preconference planning, identifying and recommending the selection of Department members for official U.S. delegations, coordination of the preparation by Department specialists of position papers and background material for agenda items, arrangements for the presentation of the Department's position in interagency discussions concerned with the development of the U.S. position, and coordination of interagency clearance of additional instructions for U.S. delegations.

.06 The following functions shall also be performed in the Office of the Director:

a. Provide through a Compliance Commissioner for the conduct of hearings and performance of other duties with respect to administrative compliance proceedings involving export control violation cases, in accordance with the rules set forth in the export regulations, and as may be otherwise specified by the Director, Office of Export Control, in connection with such cases.

b. Provide through an Executive Secretary, secretariat services for the Advisory Committee on Export Policy (ACEP), of which the Assistant Secretary for Domestic and International Business is Chairman, as well as the Export Control Review Board, of which the Secretary of Commerce is Chairman. The Executive Secretary shall also act as Chairman of the ACEP Operating Committee.

SEC. 4. *Functions of the Office of Commercial and Financial Policy.* .01 The Office of Commercial and Financial Policy shall:

a. Be responsible for the preparation of the Department's policy positions in the field of international trade and finance to facilitate trade and investment;

b. Develop recommendations with respect to the Department's position regarding programs, policies, measures, and legislation affecting broad sectors of international trade and commerce; the U.S. tariff and customs regulations; international monetary and financial matters; foreign operations of U.S. business; commodities and resources having international economic implications, including international commodity arrangements and study groups; international insurance and transportation problems affecting U.S. business; the International Labor Organization; and assigned areas of the Organization for Economic Cooperation and Development (OECD);

c. Represent the Department on the staff-level committees organized in connection with the Trade Expansion Act of 1962; conduct studies and develop recommendations with respect to trade negotiations and to the Department's position on matters arising in the administration of the General Agreement on Tariffs and Trade and in other international trade forums such as the Trade Committee of the OECD; and conduct studies and make recommendations on legislative and administrative actions concerning specific changes in tariffs, other import restrictions and other measures relating to the impact of imports on the domestic economy;

d. Provide appropriate analyses, recommendations, and representation for the Department on matters pertaining to international commodity and resource problems, policies, and programs;

e. Represent the Department in matters relating to international finance as developed within and outside of the National Advisory Council on International Monetary and Financial Problems (NAC), particularly with respect to policies and problems relating to export financing, export guarantees and credit insurance, foreign lending and assistance activities of U.S. and international agencies, balance of payments measures, and international monetary policy; act as the Department's principal liaison with banks and other private institutions engaged in international financing activities with U.S. Governmental agencies lending abroad and with international financial institutions including Export-Import Bank, the development of lending activities of the Agency for International Development (AID), the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), and the Inter-American Development Bank (IDB); and conduct analyses and develop policies for consideration in overall Governmental planning and operations in these areas;

f. Formulate policy and program recommendations relating to the administration of Government-financed procurement programs, including foreign aid, particularly with respect to their effect on foreign trade and investment;

g. Formulate policy and program recommendations relating to private foreign operations of American firms specifically with reference to restrictive practices, patents, trademarks, copyrights, arbitration, monopolies, cartels, state-trading, expropriation, and U.S. and foreign tax measures;

h. Serve as the focal point for developing Departmental policy and program recommendations for the protection of American property rights abroad, and with respect to the drafting and negotiation of treaties, conventions, and agreements bearing on the international operations of American business;

i. Serve as the insurance industry's point of contact with the Department; provide information for policy officials of the Department and the business community regarding insurance and transportation abroad; develop recommendations with respect to foreign insurance and transportation laws and practices as they affect U.S. export trade; and with respect to transportation and insurance programs of international organizations; serve as the Executive Secretariat of the National Facilitation Committee; and develop Departmental recommendations for easing the burden on U.S. business interests engaged in international transportation by eliminating or simplifying procedural requirements; and

j. Develop and maintain plans to insure continuity of the essential functions of the office in event of a national emergency.

SEC. 5. *Functions of the Office of International Regional Economics.* .01 The Office of International Regional Economics shall:

a. Develop recommendations for the Department's policy positions with respect to problems of trade and finance with individual foreign countries and international regions;

b. Develop recommendations with respect to the Department's position on legislation relating to problems of trade and finance with particular foreign countries and international regions; problems relating to the trade of the United States with particular countries and international regions arising in negotiations under or in the administration of the General Agreement on Tariffs and Trade; country and international regional programs and the policies applied to individual countries or international regions in the United States foreign aid program; and international regional economic integration activities;

c. In consultation with the other interested units of the Department's Domestic and International Business area, develop, maintain, and revise as necessary a comprehensive U.S. commercial program for each major trading country, setting forth the key problems and opportunities for United States commerce in that country and the priorities and schedules for DIB trade and investment promotion or policy projects respecting the country; continuously review the progress of action under this program and evaluate the effectiveness of the overall Commerce country program; in cooperation with the Office of Foreign Commercial Services evaluate the effectiveness of U.S. commercial staffs at foreign service posts in relation to the country programs; plan and coordinate preparations for periodic regional conferences of U.S. commercial officers overseas;

d. Provide the business community and the Department with analyses of United States foreign trade and investment activities and trade relations among foreign countries which assess the effect of international economic developments, including international regional integration, upon United States interests;

e. Provide country program advice and marketing information for the overseas economic programs of the Department including the foreign commercial services, export control, and trade exhibits and missions;

f. Develop recommendations on the Department's positions on international organizations concerned with international regional groups of countries; and represent the Department as appropriate in inter-departmental discussions relating to international meetings of these organizations;

g. Assemble, maintain, analyze and disseminate to U.S. businessmen data on foreign markets, economic conditions, laws and regulations needed by U.S. firms in connection with the planning and conduct of their international trade and investment operations, and make such material available for use by other agencies of the Government and other interested parties; schedule and prepare necessary publications on markets, trade and investment;

h. Maintain expert familiarity with the economy of the Sino-Soviet Bloc and with the activities of the Bloc in the fields of trade and economic penetration for the purpose of providing information and policy recommendations to officials of the Department, and guidance to the business community;

i. Initiate and pursue, through the Foreign Service of the United States, representations on behalf of U.S. business interests for the maintenance of their rights and privileges abroad under the terms of treaties and international agreements of the United States;

j. Maintain contacts with foreign government representatives in the United States; with the Department of State and other U.S. Government and intergovernmental agencies as appropriate;

k. Compile, analyze, and publish selected trade statistics of the United States and foreign countries;

l. Program meetings and appointments of foreign official visitors and delegations with Department of Commerce officials in Washington and in the field;

m. Administer the China Trade Act; and

n. Develop and maintain plans to insure continuity of the essential functions of the office in event of a national emergency.

SEC. 6. *Functions of the Office of International Investment.* .01 The Office of International Investment shall:

a. Encourage and promote increased participation by private enterprise in United States Government foreign aid programs including direct participation in construction, financing and operating foreign aid projects and consortium-type financing of large scale projects; and assist the U.S. foreign aid agency in promoting private enterprise in recipient countries;

b. Promote U.S. investment in developing nations; generate and identify investment and licensing opportunities; assist in the formation of cooperative ventures with enterprises of other advanced countries in the less developed areas; seek to interest U.S. firms in such investment opportunities in cooperation with the Business and Defense Services Administration and the Field Offices of the Department;

c. Provide information to U.S. business concerns contemplating joint ventures with foreign enterprises;

d. Collaborate with the Area Redevelopment Administration in assisting State industrial development authorities seeking foreign enterprise investment in the United States; compile and prepare for use abroad information on U.S. business practices and related laws, and marketing prospects; develop and follow through on specific opportunities for foreign direct investment in the United States, especially from other developed countries;

e. Identify private and public sources for loans, investment capital, guarantees, and other assistance;

f. Stimulate the development of new approaches and new organizational arrangements in U.S. industry to gain wider participation in development activities abroad, especially on the part of medium and smaller U.S. firms and to encourage the development of private enterprise activities in developing countries; and

g. Develop and maintain plans to insure continuity of the essential functions of the office in event of a national emergency.

SEC. 7. *Functions of the Office of International Trade Promotion.* .01 The Office of International Trade Promotion shall:

a. Plan, design, and conduct commercial trade fair exhibitions of United States products in selected foreign market areas; identify qualified U.S. firms and arrange for their participation; undertake appropriate follow-up activities to facilitate the establishment and/or development of permanent and productive trading relationships by participants;

b. Plan, design, establish and operate U.S. Trade Centers abroad and plan, design, and operate, in series, individual trade shows at the individual Centers; identify qualified U.S. firms and arrange for their participation; undertake appropriate follow-up activities to facilitate the establishment and/or development of permanent and productive trading relationships by participants;

c. Plan and conduct U.S. Trade Missions to promote international trade and investment in selected foreign countries; encourage and facilitate private utilization of the Trade Mission technique by U.S. business with the sponsorship of the Department; provide limited advisory services to traveling business groups which do not meet the criteria for sponsorship by the Department; in coordination with other segments of the Department, undertake activities which provide for the dissemination of the results of the Trade Missions program for the benefit of the U.S. economy.

d. Plan, design, and conduct exhibitions presenting the cultural and commercial strength of the United States at selected international trade fairs or in special exhibitions as provided for by the Mutual Cultural Exchange Act; assist in implementing the foreign policy objectives of the U.S. Government through operation of the program, and specifically by advising the Department of State and the U.S. Information Agency on the effective implementation of the selected themes;

e. Administer the Mobile Trade Fair Program as established by Congress and provide technical support on the use of trade promotion techniques and basic information to the private operators of Mobile Trade Fairs;

f. Plan the location and utilization of Business Information Centers in international trade fairs where the U.S. is not otherwise officially represented, and allocate funds to Foreign Service posts for operation of the Centers;

g. Consider and test new trade promotion techniques within the limits of available staff and facilities and recommend appropriate action for Departmental consideration;

h. Maintain and disseminate data pertaining to fairs and exhibits in the U.S. and abroad which can be used by U.S. firms to promote the international trade interests of the United States;

i. Review and prepare for action applications for tariff exemptions under the Trade Fair Act of 1959;

j. Provide World Trade Directory Reports, Trade Lists, Trade Contact Surveys, and trade complaint services; maintain, as the central repository for Government use, exporter-importer indices and related records on U.S. firms in international trade and investment so that action by such firms to develop trade and investment opportunities can be stimulated;

k. Support the Export Control function of the Department of Commerce and economic defense activities of other U.S. agencies by providing commercial intelligence on trade contacts;

l. Select and furnish basic directories, reference material, periodicals and catalogs of U.S. firms for American Embassies and Consulates;

m. Develop and maintain plans to insure continuity of the essential functions of the office in event of a national emergency; and

n. Disseminate information regarding the visit of foreign businessmen and business groups interested in buying from the United States.

SEC. 8. *Functions of the Office of Export Control.* .01 The Office of Export Control shall:

a. Administer, and in conjunction with the Office of the General Counsel, enforce the export regulations and control programs required to carry out the Department's responsibilities under the Export Control Act of 1949, as amended, including the initiation, development and recommendation of policies and measures for the control of United States exports of commodities and technical data;

b. Provide technical staff and operational support to the Director of the Bureau of International Commerce, the Assistant Secretary for Domestic and International Business, and the Secretary of Commerce in connection with their export control responsibilities and related matters;

c. Represent the Department of Commerce on national security and foreign policy matters before the Operating Committee of the Advisory Committee on Export Policy and provide such staff support to the Chairman of the Committee as is required in connection with his duties as Chairman;

d. Seek, in collaboration with appropriate agencies, the adoption and maintenance by foreign countries of such controls over their exports and other related measures as will help to carry out the policies of the United States with respect to trade between the free world and the Communist-dominated areas, and such other areas as national security and foreign policy require, and advise other U.S. Government departments in their development and implementation of policies and programs relating to international export controls, U.S. economic defense and U.S.-U.S.S.R. technical, industrial and cultural exchanges of delegations;

e. Represent the Department on certain committees and working groups of the Department of State's Economic Defense Advisory Committee structure and the Department of State's East-West Exchange Committee structure; and coordinate Departmental policies and programs concerning U.S. and International export controls, U.S. economic defense, and East-West exchanges;

f. Develop and recommend plans and procedures to maximize the effectiveness of U.S. export control and economic defense measures;

g. Determine standards and procedures governing applications for export licenses and carry out the operations involved in the issuance of export licenses;

h. Prepare and issue necessary regulations for the control of exports from the United States;

i. Maintain liaison with the Foreign Service of the United States with respect to export control matters;

j. Establish regular liaison with the Field Offices of the Department of Commerce, and as appropriate, the Bureau of Customs, and the Post Office Department through personal visits for the purpose of consulting on all export control activities; supervise the maintenance of the necessary operating manuals which provide guidance to the Field Offices and Customs Offices on export control programs;

k. Investigate possible violations of the export regulations and develop evidence on the basis of which appropriate administrative, civil or criminal action may be taken;

l. Prepare the Quarterly Report for the Secretary of Commerce, as required under the Act;

m. Plan and carry out necessary and appropriate educational programs to enlist the support of industry, Government and private citizens in an effective export control program; and

n. Develop and maintain plans to insure continuity of the essential functions of the office in event of a national emergency.

SEC. 9. *Delegation of Authority Relating to Export Control.* .01 The Director, Office of Export Control, is delegated authority to exercise and perform all powers and functions provided by the Export Control Act of 1949, as amended. This specifically includes the authority:

a. To issue rules and regulations to carry out the purposes of the aforesaid Act, including rules and regulations applicable to the financing, transporting, and other servicing of exports and the participation therein by any person;

b. To sign and issue subpenas requiring any person to appear and testify or to appear and produce books, records, and other writings, or both, to any designated place, in connection with any investigation or proceeding necessary or appropriate to the enforcement of said export control authority;

c. To require reports and the keeping of records by any person, to the extent necessary or appropriate to the enforcement of said export control authority, and to require any person to permit the inspection of books, records, and other writings, premises or property; and

d. To take any other action necessary or appropriate to achieve effective enforcement of the Act in connection with actual or potential export control violations, including the issuance of denial and probation orders.

.02 The Director, Office of Export Control, is authorized to redelegate any power or function conferred by this delegation and may authorize successive redelegations, except as otherwise provided and limited in subsections .03, .04, and .05 hereof with respect to inspections, subpoenas, oaths, and affirmations, and other enforcement authority.

.03 In addition to the Director, at all times the Deputy Director, Office of Export Control, the Director of the Investigations Division and the Agent-in-Charge, New York Field Office, Investigations Division, are each authorized:

a. To require any person to permit the investigation of books, records, and other writings, premises, or property; and

b. To sign and issue subpenas requiring any person to appear and testify or appear and produce books, records, and other writings, or both, to any designated place, in connection with any investigation or proceeding necessary or appropriate to the enforcement of said export control authority.

.04 The Compliance Commissioner is authorized, in any proceeding for the denial of licensing privileges under the Export Control Act of 1949:

a. To administer oaths and affirmations; and

b. To sign and issue subpenas, requiring any person to appear and testify or to appear and produce books, records, and other writings, or both.

.05 Any special agent employed in the Investigations Division of the Office of Export Control and any attorney in the Office of the General Counsel assigned to export control enforcement duties, who is specifically designated as a special agent of the Bureau of International Commerce, is hereby authorized:

a. To make investigations, obtain information, inspect books, records, and other writings, premises, or property of, and take the sworn testimony of, any person; and

b. To administer oaths and affirmations for the purpose of procuring or receiving from any person sworn statements or other sworn testimony, concerning any matter under investigation necessary or appropriate to the enforcement of the export control authority.

.06 This supersedes delegations of authority previously made and confirmed with respect to export control, except that all outstanding rules, regulations, orders, licenses, designations, and other forms of administrative action shall, until amended or revoked, remain in full force and effect.

SEC. 10. *Administrative, Publications, and Related Services.* .01 Administrative management, budget, personnel and related administrative services are furnished to the Bureau of International Commerce by the Office of Administration, (DIB) pursuant to Department Order No. 189.

.02 Publications and information services are furnished to the Bureau of International Commerce by the Office of Publications and Information, (DIB) pursuant to Department Order No. 190.

Effective date: February 1, 1965.

HERBERT W. KLOTZ,
Assistant Secretary for Administration.

[F.R. Doc. 65-1573; Filed, Feb. 12, 1965; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-80]

COLORADO STATE UNIVERSITY

Notice of Proposed Issuance of Construction Permit and Facility License Amendment

Colorado State University ("the licensee") is authorized under Facility License No. R-26 to possess and operate its nuclear reactor Model AGN-201, Serial No. 109 ("the reactor") located on its campus at Fort Collins, Colo. By application dated July 7, 1964, as amended September 30, 1964, the licensee requested authorization to move the reactor from its present location in the Engineering Building to the recently constructed Biophysical Science Building on its campus.

Please take notice that the Atomic Energy Commission ("the Commission") proposes to issue to Colorado State University a construction permit, substantially as set forth in Appendix A, which would authorize the licensee to remove the reactor from its present location and reconstruct it in the Biophysical Science Building.

Notice is also given that upon completion of the relocation of the reactor authorized by the construction permit, the Commission may, without further prior public notice, issue an amendment to Facility License No. R-26, substantially as set forth in Appendix B, which would authorize the licensee to operate the reactor at the new location.

The Commission has found that:

A. The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

B. The licensee is financially and technically qualified to undertake the removal and relocation of the reactor as described in the application;

C. The licensee has submitted sufficient information to provide reasonable assurance that the reactor can be (1) removed from its present location, and (2) reconstructed and operated at the new location as proposed without undue risk to the health and safety of the public; and

D. Issuance of the proposed construction permit and facility license amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by the issuance of this construction permit and facility license amendment may file a petition for leave to intervene. Any request for a hearing or petition for leave to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed issuance, see (1) the application and amendment thereto, and (2) the related hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C., 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 10th day of February 1965.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

APPENDIX A

PROPOSED CONSTRUCTION PERMIT

1. Facility License No. R-26, as amended, authorizes Colorado State University (hereinafter "the licensee") to possess and operate its nuclear reactor Model AGN-201, Serial No. 109 (hereinafter "the reactor") on its campus at Fort Collins, Colo. By application dated July 7, 1964, as amended September 30, 1964, the licensee requested authorization to move the reactor from its present

location in the Engineering Building and to reconstruct the reactor in the Biophysical Science Building located on the licensee's campus.

2. Pursuant to the Atomic Energy Act of 1954, as amended (hereinafter "the Act"), and Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities," the Atomic Energy Commission (hereinafter "the Commission") hereby issues a construction permit to Colorado State University to remove the reactor from its present location in the Engineering Building and to reconstruct the reactor in the Biophysical Science Building on the licensee's campus in accordance with the application. This permit shall be deemed to contain and is subject to the conditions specified in §§ 50.54 and 50.55 of the Commission's regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified below:

A. The earliest and latest dates for completion of reconstruction of the reactor are March 3, 1965 and June 30, 1965, respectively.

B. The removal of the reactor from the present location and reconstruction in the Biophysical Science Building shall be accomplished in accordance with the procedures described in the application, as amended, subject to the following additional conditions:

(1) Adequate radiation surveys shall be performed in the Engineering Building to ensure that members of the general public occupying the area will not receive radiation exposures in excess of those allowed by Part 20, Title 10 of the Code of Federal Regulations.

(2) Containers containing radioactive materials shall be appropriately labeled as required by § 20.203(f) of 10 CFR Part 20.

3. Upon completion of the removal and relocation of the reactor in accordance with the terms and conditions of this permit, and upon finding that the reactor will operate in conformity with the provisions of the Act and the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license amendment would not be in accordance with the provisions of the Act, the Commission will, pursuant to the Act, issue to the licensee an amendment to Facility License No. R-26 authorizing operation of the reactor at the new location.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

APPENDIX B

PROPOSED FACILITY LICENSE AMENDMENT

1. Facility License No. R-26, as amended, which authorizes Colorado State University ("the licensee") to operate its nuclear reactor Model AGN-201, Serial No. 109 ("the reactor") on its campus at Fort Collins, Colo., is hereby further amended to authorize the licensee to operate the reactor at the location in the Biophysical Science Building described in the licensee's application dated July 7, 1964, as amended September 30, 1964.

2. The reactor shall be operated in accordance with the terms and conditions contained in License No. R-26, as amended, subject to the following additional conditions:

A. Access to the reactor room in the Biophysical Science Building shall be controlled.

B. A health physics monitoring station shall be maintained in the room containing the reactor console.

C. A radiation survey shall be performed in the Biophysical Science Building following achievement of full power operation to ensure that no hazardous areas exist.

3. This amendment is effective as of the date of issuance.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[F.R. Doc. 65-1593; Filed, Feb. 12, 1965; 8:48 a.m.]

[Docket No. 50-214]

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

Order Designating Prehearing Conference

On February 10, 1965, the Regulatory Staff of the Commission filed a motion requesting that a prehearing conference convene on February 26, 1965, to consider procedures for the presentation of evidence in this proceeding, including the exchange of prepared proposed statements for evidence, stipulations, if any, that may be achieved respecting exhibits, and the order in which witnesses will be presented at the evidentiary hearing scheduled by the Commission to convene on March 23, 1965.

The motion asserted that the parties to this proceeding had indicated that February 26, 1965, was a date convenient to consider these matters.

Wherefore, based upon the aforesaid motion and good cause appearing,

It is ordered, Pursuant to § 2.752 of the Commission's rules of practice, a prehearing conference in this proceeding shall convene at 10 a.m., local time, on February 26, 1965, in the Council Chambers, City Hall, 1685 Main Street, Santa Monica, Calif., to consider the matters set forth in the motion, and those matters provided for consideration by § 2.752 of the rules of practice of the Commission, all in aid of an expeditious and orderly presentation of evidence and disposition of this proceeding.

Issued: February 10, 1965, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[F.R. Doc. 65-1610; Filed, Feb. 12, 1965; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 15353; Order E-21777]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of February 1965.

Agreements adopted by Traffic Conference 1 and Joint Conferences 1-2 and 3-1 of the International Air Transport Association relating to specific commodity rates, Docket 15353; Agreement C.A.B. 17456, R-15 through R-19; Agreement C.A.B. 17666, R-91; Agreement C.A.B. 17868, R-29.

There have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, agreements between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 and Joint Conferences 1-2 and 3-1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 (Commodity Rates Board).

The agreements, adopted pursuant to unprotested notices to the carriers, name additional specific commodity rates as set forth in the attachment hereto.[1]

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreements to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered:

That Agreements C.A.B. 17456, R-15 through R-19, C.A.B. 17666, R-91, and C.A.B. 17868, R-29, be approved, provided that such approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Any air carrier party to the agreements, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 65-1587; Filed, Feb. 12, 1965; 8:47 a.m.]

[Docket No. 15353; Order E-21779]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of February 1965.

Agreement adopted by the International Air Transport Association relating to specific commodity rates, Docket 15353; Agreement CAB 18169, R-1 through R-3.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and

[1] Filed as part of original document.

other carriers, embodied in the resolutions of the joint conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement was promulgated in IATA memoranda JT123/Rates 814 and 815 and Specific Commodity Rates Committee Status Reports Numbers 1 and 2. The agreement readopts within IATA a number of currently effective Joint Conference 1, 2, and 3 rates. In addition, the agreement names specific commodity rates as follows:

Item 2203—Clothing and footwear, outerwear, undergarments; and parts thereof; n.e.s., excluding umbrellas, billfolds, purses, carrying cases, handbags, costume jewelry, jewelry, canes, watches and clocks, 152 cents per kilogram, minimum weight 500 kilograms; 132 cents per kilogram, minimum weight 1000 kilograms; Bombay to New York.

Item 9509—Handcrafts, namely handloomed textiles, brass, copper, iron, wood and clay articles, 200 cents per kilogram, minimum weight 45 kilograms; 180 cents per kilogram, minimum weight 100 kilograms; 162 cents per kilogram, minimum weight 250 kilograms; Calcutta to New York.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered:

That Agreement CAB 18169, R-1 through R-3, be approved, provided that such approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 65-1588; Filed, Feb. 12, 1965; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15668 etc.; FCC 65M-164]

CHICAGOLAND TV CO. ET AL.

Order Consolidating Prehearing Conferences

In re applications of Frederick B. Livingston and Thomas L. Davis, doing business as Chicagoland TV Co., Chicago, Ill., Docket No. 15668, File No. BPCT-3116; Warner Bros. Pictures, Inc., Chicago, Ill., Docket No. 15669, File No. BPCT-3271; Chicago Federation of Labor and Industrial Union Council, Chicago, Ill., Docket No. 15708, File No. BPCT-3439; for construction permit for new television broadcast station (Channel 38).

The Hearing Examiner having for consideration an order of designation released by the Commission on February 5, 1965 (FCC 65-85, Mimeo. No. 61838), in KXYZ Television, Inc., Houston, Tex., Docket No. 15826 et al., together with the Chief Hearing Examiner's order released February 8, 1965, assigning this Hearing Examiner to preside at the Houston proceeding and setting a prehearing conference for March 1, 1965;

It appearing, that the Commission has designated into the Houston proceeding issues identical to Issues 3, 4, and 5 herein which were consolidated for hearing purposes with identical issues in the Fort Worth, Tex., Channel 20 proceeding (Trinity Broadcasting Co., Docket No. 15714 et al.);

It further appearing, that the Houston order of designation does not purport to consolidate for hearing purposes those issues in that proceeding which are identical with those in this and the Fort Worth proceeding, but that it would be appropriate to consider whether the public interest would be served by such consolidation for hearing purposes by order of the Hearing Examiner;

It is ordered, This ninth day of February 1965, on the Hearing Examiner's own motion, that a prehearing conference herein shall be convened on March 1, 1965, commencing at 10 a.m.; that such prehearing conference shall be consolidated with prehearing conferences in the Fort Worth and Houston proceedings; and that the parties in all three proceedings shall be prepared to discuss the desirability of a consolidation for hearing purposes of all three proceedings, as far as the common issues are concerned.

Released: February 10, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-1583; Filed, Feb. 12, 1965; 8:47 a.m.]

[Docket Nos. 15681, 15682; FCC 65M-162]

CHARLES L. HAMILTON, SR., ET AL.

Order Continuing Hearing

In re Applications of Charles L. Hamilton, Sr., and Mildred B. Hamilton (husband and wife), Newton, Iowa, Docket No. 15681, File No. BPH-4379; Richard C. Brandt, Newton, Iowa, Docket No. 15682, File No. BPH-4422; for construction permits.

The Hearing Examiner having under consideration "Request for Postponement of Hearing", filed in the above-entitled proceeding on February 8, 1965, by applicant Charles L. Hamilton, Sr., and Mildred B. Hamilton; and

It appearing, that a 60-day postponement of the hearing (from February 23), as requested, is warranted by the fact that applicant has filed a petition jointly with applicant Brandt, which, if ruled upon favorably by the Review Board, will eliminate the need for a hearing on the present issues; and that all parties, including the Broadcast Bureau have indicated informally to applicant Hamilton that they will interpose no objection to the relief requested;

It is ordered, This ninth day of February 1965, that the motion referred to above is hereby granted, and that the hearing is continued until 10 a.m., Thursday, April 22, 1965, at the Commission's offices, Washington, D.C., subject to further order in the premises in the event circumstances may require it.

Released: February 10, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-1584; Filed, Feb. 12, 1965; 8:47 a.m.]

[Docket Nos. 15826-15828; FCC 65M-163]

KXYZ TELEVISION, INC., ET AL.

Order Consolidating Prehearing Conferences

In re applications of KXYZ Television, Inc., Houston, Tex., Docket No. 15826, File No. BPCT-3220; Crest Broadcasting Co., Houston, Tex., Docket No. 15827, File No. BPCT-3302; Warner Bros. Pictures, Inc., Houston, Tex., Docket No. 15828, File No. BPCT-3464; for construction permit for new television broadcast station (Channel 29).

The Hearing Examiner has for consideration the Commission's order of designation released herein on February 5, 1965 (FCC 65-85, Mimeo. No. 61838), together with the Chief Hearing Examiner's order released February 8, 1965, setting a prehearing conference for March 1, 1965;

It appearing, that, Issues No. 5, 6, and 7, as well as paragraphs f, g, and h, of the subject order of designation are identical to issues and textural paragraphs included in the Commission's orders of designation released December 1, 1964 in Trinity Broadcasting Co., Fort Worth, Tex., Docket No. 15714 et al., and October 23 and November 20, 1964 in Chicagoland TV Co., Chicago, Ill., Docket No. 15668, et al.;

It further appearing, that, by its said designation order of December 1, 1964 in Trinity, supra, the Commission consolidated for hearing purposes the common basic qualifications issues relative to Warner Bros. Pictures, Inc. in the Fort Worth and Chicago proceedings; and that pursuant to the Hearing Examiner's Orders released December 14, 1964 in the Fort Worth and Chicago proceedings, Warner Bros. Pictures, Inc. has undertaken to meet its burden of proof on the consolidated issues by use of the direct written case, and has been ordered to exchange its exhibits on or before March 11, 1965, with a hearing session on the admission of such exhibits to commence on April 1, 1965;

It further appearing, that the instant order of designation does not purport to consolidate for hearing purposes those issues in this proceeding which are identical with those in the Chicago and Fort Worth hearings, but that it would be appropriate to consider whether the public interest would be served by such consolidation for hearing purposes by order of the Hearing Examiner;

It is ordered, This ninth day of February 1965, on the Hearing Examiner's own motion, that the prehearing conference commencing herein on March 1, 1965, is consolidated with a prehearing conference to be conducted in the Chicago and Forth Worth proceedings, and the parties in all three proceedings shall be prepared to discuss the desirability of a consolidation for hearing purposes of all three proceedings, so far as the common issues are concerned.

Released: February 10, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-1585; Filed, Feb. 12, 1965; 8:47 a.m.]

[Docket Nos. 15714, 15715; FCC 65M-159]

TRINITY BROADCASTING CO. AND WARNER BROS. PICTURES, INC.

Order Scheduling Prehearing Conference

In re applications of Trinity Broadcasting Co., Fort Worth, Tex., Docket No. 15714, File No. BPCT-3172; Warner Bros. Pictures, Inc., Fort Worth, Tex., Docket No. 15715, File No. BPCT-3272; for construction permit for new television broadcast station (Channel 20).

The Hearing Examiner having for consideration an order of designation released by the Commission on February 5, 1965 (FCC 65-85, Mimeo. No. 61838), in KXYZ Television, Inc., Houston, Tex., Docket No. 15826 et al., together with the Chief Hearing Examiner's order released February 8, 1965, assigning this Hearing Examiner to preside at the Houston proceeding and setting a prehearing conference for March 1, 1965;

It appearing, that the Commission has designated into the Houston proceeding issues identical to Issues 3, 4, and 5 herein which were consolidated for hearing purposes with identical issues in the Chicago, Ill., Channel 38 proceeding (Chicagoland TV Co., Docket No. 15668 et al.);

It further appearing, that the Houston order of designation does not purport to consolidate for hearing purposes those issues in that proceeding which are identical with those in this and the Chicago proceeding, but that it would be appropriate to consider whether the public interest would be served by such consolidation for hearing purposes by order of the Hearing Examiner;

It is ordered, This ninth day of February 1965, on the Hearing Examiner's own motion, that a prehearing conference herein shall be convened on March 1, 1965, commencing at 10 a.m.; that such prehearing conference shall be consolidated with prehearing conferences in the Chicago and Houston proceedings; and that the parties in all three proceedings shall be prepared to discuss the desirability of a consolidation for hearing purposes of all three proceedings, as far as the common issues are concerned.

Released: February 10, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-1586; Filed, Feb. 12, 1965; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

LYKES BROS. STEAMSHIP CO., INC., AND DAMPFSCHIFFAHRTS-GESELLSCHAFT "NEPTUN"

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. L. Gusman,
Assistant Vice President, Traffic,
Lykes Bros. Steamship Co., Inc.,
821 Gravier Street,
New Orleans, La. 70150.

Agreement 9402, between Lykes Bros. Steamship Co., Inc., and Dampfschiffahrts-Gesellschaft "Neptun", covers a through billing arrangement on cargo from North Spain and Portugal to U.S. Gulf ports, with transhipment at Antwerp and/or Rotterdam, under terms and conditions set forth in the agreement. This agreement, upon approval, will supersede and cancel approved Agreement 8596, covering a similar arrangement between the parties in the same trade, with transhipment at Antwerp only.

Dated: February 10, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-1575; Filed, Feb. 12, 1965; 8:46 a.m.]

LYKES BROS. STEAMSHIP CO., INC., AND MEMBER LINES OF TYRRHENIAN/LEVANT FREIGHT CONFERENCE (AMETILE)

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. S. Buchanan, Jr.,
Traffic Manager, Mediterranean Service,
Lykes Bros. Steamship Co., Inc.,
821 Gravier Street,
New Orleans, La. 70150.

Agreement 9421, between Lykes Bros. Steamship Co., Inc., and the member lines of the Tyrrhenian/Levant Freight Conference (Ametile), covers a through billing arrangement on cargo, eastbound and westbound, between U.S. Gulf and South Atlantic ports and ports in the Levant Area, (Eastern Mediterranean), with transhipment at Genoa and/or Naples, Italy, under terms and conditions set forth in the agreement.

Dated: February 10, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-1576; Filed, Feb. 12, 1965; 8:46 a.m.]

NEW ORLEANS DOCK BOARD AND PUBLIC GRAIN ELEVATOR OF NEW ORLEANS, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or may inspect agreements at the offices of the District Managers, N.Y., N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

T. S. L. Perlman,
Attorney for the Board of Commissioners of New Orleans,
Kominers & Fort,
Tower Building,
1401 K Street NW.,
Washington, D.C.

Agreement No. T-590-1, between New Orleans Dock Board and Public Grain Elevator of New Orleans, Inc., is a modification of approved agreement No. T-590. The basic agreement provides for the lease of the Public Grain Elevator at New Orleans. The modification provides for an amendment of the billing period for rentals thereunder.

Dated: February 10, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-1577; Filed, Feb. 12, 1965; 8:47 a.m.]

OZEAN-LINIE G. M. B. H. AND HUGO STINNES

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Ralph Rugan, Jr.,
Biehl & Co., Inc.,
Steamship Agents,
416 Common Street,
New Orleans, La. 70130.

Agreement 8810-2, between Ozean-Linie G. M. B. H. and Hugo Stinnes, parties comprising the Ozean/Stinnes Lines Joint Service, provides for the reinstitution of the revenue pooling arrangement contained in Article 2 of the basic agreement by the parties operating in the trades between ports of the United States and ports of Europe.

Dated: February 10, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-1578; Filed, Feb. 12, 1965; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7183]

ALABAMA ELECTRIC COOPERATIVE, INC., AND ALABAMA POWER CO.

Order Providing for Hearing and Denying Motions To Dismiss Complaints

FEBRUARY 5, 1965.

This order directs a hearing on issues raised in two complaints filed by the Alabama Electric Cooperative, Inc., Andalusia, Ala., against the Alabama Power Co., Birmingham, Ala. One complaint was filed on September 23, 1964, and a second complaint, in the form of a supplement to the initial complaint, was filed November 17, 1964. Answers to the complaints and motions to dismiss were filed by Alabama Power Co. on October 26, 1964, and November 27, 1964. Alabama Electric Cooperative on November 5, 1964, responded to Alabama Power Co.'s October 26, 1964, motion to dismiss. This order denies Alabama Power Co.'s motions to dismiss.

Alabama Electric Cooperative complains that Alabama Power Co.'s existing rates to the Cooperative for wholesale electric service are unlawful within the meaning of sections 205 and 206 of the Federal Power Act, and that the Company's proposed rates (not yet on file with this Commission) for wholesale electric service to the Cities of Troy, Ala., and Luverne, Ala., are similarly unlawful.

Currently Alabama Electric Cooperative, a generating and transmission cooperative serving other cooperatively owned electric systems, municipally owned electric systems and industrial customers, secures a portion of its wholesale electric supply from Alabama Power Co. under the latter's Rate Schedule FPC No. 24. The Cities of Troy and Luverne are currently served by Alabama Electric Cooperative but in the near future propose to secure electric service directly from Alabama Power Co. Service will be commenced on or about June 1, 1965. Alabama Electric Cooperative seeks an investigation and hearing prior to that date. Although not currently on file with this Commission, the pleadings herein indicate that the rate which Alabama Power Co. proposes to serve Troy and Luverne is substantially the same as the rate under which the Company now supplies wholesale electric service to Alabama Electric Cooperative.

Numerous underlying arguments concerning the proper basis upon which to ascertain the lawfulness of Alabama Power Co.'s rates to the Cooperative and to the two Cities, the jurisdiction of this Commission over the Company's wholesale electric service, the time within which the Company shall file its rate schedules for wholesale electric service to the Cities, and the appropriate terms and conditions for service by the Company to the Cooperative and the Cities make it necessary to direct a hearing on questions raised in the complaints and answers thereto, and to deny the motions to dismiss, without prejudice to their being renewed at the conclusion of the hearing. It has been contended that the complaints are premature. Under the circumstances presented here where firm contracts for such sales to commence at a fixed date are already in existence, a person who would be affected thereby need not await the date of filing to commence otherwise valid complaint proceedings.

The Commission further finds: It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 201, 202, 205, 206, 301, 306, 307, 308, and 309 thereof, that (1) a public hearing be held on the issues raised by Alabama Electric Cooperative's complaints and Alabama Power Co.'s answers thereto, except insofar as the latter seek a dismissal of those complaints; and (2) Alabama Power Co.'s motions to dismiss be denied.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure, a public hearing shall be held commencing at 10 a.m., e.s.t., March 16, 1965, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., on the matters involved in and on the issues presented by the complaints filed by Alabama Electric Cooperative and the answers thereto filed by Alabama Power Co. in the above-entitled proceeding.

(B) A prehearing conference shall be held before the presiding examiner commencing at 10 a.m., e.s.t., February 15, 1965, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., for purposes as specified in the Commission's rules of practice and procedure.

(C) Alabama Power Co. is hereby directed pursuant to the provisions of the Federal Power Act, particularly sections 301, 306, 307, 308, and 309 thereof, to grant to the members of the staff of the Federal Power Commission during regular business hours free access to and opportunity to inspect and examine all facilities, properties, accounts, memoranda and other records of the Company when requested so to do for the purposes of the hearing ordered herein.

(D) Notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington, D.C., 20426, on or before March 1, 1965, and in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37).

(E) The motions filed by Alabama Power Co. to dismiss the complaints filed by Alabama Electric Cooperative in the above-entitled proceeding are hereby denied.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 65-1554; Filed, Feb. 12, 1965; 8:45 a.m.]

[Project 2503]

DUKE POWER CO.

Notice of Application for License

FEBRUARY 8, 1965.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a to 825r) by Duke Power Co. (correspondence to: Carl Horn, Jr., Vice President and General Counsel, Duke Power Co., Power Building, Charlotte, N.C.; George W. Ferguson, Jr., Assistant General Counsel, Duke Power Co., Power Building, Charlotte, N.C.; and Mr. Charles W. Smith, Box 7353, Halethorpe Station, Baltimore 24, Md.) for license for proposed Project No. 2503, known as the Keowee-Toxaway Project, to be located on the Keowee, Little, Whitewater, Toxaway, Thompson, and Horsepasture Rivers, tributaries to the Savannah River, in Pickens and Oconee Counties, S.C., and Transylvania County, N.C.

The proposed project would consist of two developments described as: Keowee—(1) an earth-fill dam 150 feet high and 1,660 feet long on Little River 2.7 miles above its mouth, and an earth-fill dam 170 feet high and 3,110 feet long on Keowee River at river mile 351.5 above the mouth of the Savannah—the two dams and several saddle dikes creating (2) two reservoirs having a total capacity of 911,000 acre feet at full pond elevation 800 feet USGS, 388,000 acre-feet usable, the two reservoirs being connected by a canal which would divert practically the entire flow of Little River into the Keowee Reservoir; (3) a concrete spillway 204 feet long equipped with tainter gates with ogee crest at elevation 770 feet USGS located at Keowee Dam; (4) two concrete and steel penstocks at Keowee leading to (5) indoor powerhouse at toe of dam containing two conventional generating units, Francis type turbines each connected to a vertical type generator rated 70,000 kw (140,000 kw total); and (6) appurtenant facilities; and Jocassee—(1) a rock-fill dam with impervious core, 385 feet high and 1,800 feet long on Keowee River at river mile 366.5 above the mouth of the Savannah creating (2) a reservoir with total capacity of 1,143,000 acre-feet at full pond elevation 1,110 feet USGS; (3) a concrete spillway 88 feet long equipped with tainter gates with ogee crest at elevation 1,078 feet USGS; (4) intake structure and 2 concrete and steel penstocks leading to (5) the outdoor powerhouse at the toe of the dam containing, initially one conventional 160,000 kw vertical generating unit (Francis turbine) and one vertical type motor generator and pump-turbine unit rated 150,000 kw (310 mw total initial generating capacity) with provisions for two future similar motor generator and pump-turbine units (610 mw total ultimate generating capacity)—Keowee Reservoir serving as the lower pool for the pumped-storage operation; and (6) appurtenant facilities. The total installed capacity of the project would be 450,000 kw initially and 750 kw ultimately.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is March 22, 1965. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 65-1555; Filed, Feb. 12, 1965; 8:45 a.m.]

[Docket Nos. RI60-22, RI60-23 [1]]

LAKELAND PETROLEUM CORP. ET AL.

Order Substituting Respondents, Accepting Successors' Agreements and Undertakings for Filing, and Redesignating Proceedings

FEBRUARY 8, 1965.

Lakeland Petroleum Corp. (successor to Theo. Hamm Brewing Co.), Docket No. RI60-22; Lakeland Petroleum Corp. (Operator) et al. (successor to Theo. Hamm Brewing Co. (Operator) et al.), RI60-23.

On February 18, 1963, Lakeland Petroleum Corp. (Lakeland) filed a motion requesting that it be substituted for Theo. Hamm Brewing Co., and Theo. Hamm Brewing Co. (Operator), et al., (Hamm), respectively, as respondent in the above-designated proceedings. Lakeland also submitted agreements and undertakings to refund any excess charges determined in these proceedings.

In support of the motion, Lakeland, a wholly-owned subsidiary of Hamm, states that it acquired all the interests of Hamm in the subject properties on November 30, 1962, and that it has assumed all responsibilities and obligations of Hamm, including liability for the refund of excess charges collected subject to refund by its predecessors prior to November 30, 1962.

The proceeding in Docket No. RI60-22 relates to the jurisdictional sales of natural gas under Hamm's FPC Gas Rate Schedule No. 4,[2] to El Paso Natural Gas Co. (El Paso) and Hunt Oil Co., from the Jack Herbert Field, Upton County, Tex. (Railroad District No. 7C), and under Hamm's FPC Gas Rate Schedule No. 10,[3] from the Drinkard Field, Lea County, N. Mex. (Permian Basin Area). The proposed increased rates, designated as Supplement Nos. 10 and 11 to Greenbrier's FPC Gas Rate Schedule No. 4, and as Supplement No. 4 to Greenbrier's FPC Gas Rate Schedule No. 10, were suspended by order issued January 15, 1960, until June 18, 1960, and June 17, 1960, respectively, and became effective subject to refund on August 8, 1960.

The proceeding in Docket No. RI60-23 relates to the jurisdictional sale of natural gas under Hamm's FPC Gas Rate Schedule No. 5,[4] to El Paso from the Drinkard Field, Lea County, N. Mex. (Permian Basin Area). The proposed increased rate, designated as Supplement No. 3 to Greenbrier's FPC Gas Rate Schedule No. 5, was suspended by order issued January 15, 1960, and became effective subject to refund on August 8, 1960.

On February 18, 1963, Lakeland submitted agreements and undertakings to make refunds of any excess charges in the above-designated proceedings, including monies collected subject to refund by its predecessors prior to November 30, 1962.

By order issued July 29, 1963, in Docket No. G-4283 et al., Lakeland was substituted as certificate holder in lieu of Hamm, and Hamm's FPC Gas Rate Schedule Nos. 4, 5, and 10, were redesignated as Lakeland's FPC Gas Rate Schedule Nos. 4, 5, and 10, respectively.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and the regulations thereunder that Lakeland be substituted as respondent in lieu of Hamm in the above-designated proceedings, that the proceedings be redesignated accordingly, and that the agreements and undertakings submitted by Lakeland on February 18, 1963, be accepted for filing.

The Commission orders:

(A) Lakeland is substituted as respondent in lieu of Hamm in the proceedings in Dockets Nos. RI60-22 and RI60-23, and such proceedings are redesignated accordingly.

(B) The agreements and undertakings submitted by Lakeland on February 18, 1963, to assure refund of any excess charges which might be determined in Dockets Nos. RI60-22 and RI60-23, appear to be satisfactory and are accepted for filing.

(C) Lakeland shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. Lakeland's agreements and undertakings shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 65-1556; Filed, Feb. 12, 1965; 8:45 a.m.]

[1] The proceedings in Dockets Nos. RI60-22 and RI60-23 were consolidated with the Area Rate Proceeding in Docket No. AR61-1 et al., by order issued Dec. 23, 1960, 24 FPC 1121.

[2] Formerly designated as FPC Gas Rate Schedule No. 4 of Greenbrier Oil Co. (Greenbrier), Hamm's predecessor. Hamm was substituted as respondent in lieu of Greenbrier in these proceedings by order issued Jan. 31, 1963.

[3] Formerly designated as Greenbrier Oil Co.'s FPC Gas Rate Schedule No. 10.

[4] Formerly designated as Greenbrier Oil Co.'s FPC Gas Rate Schedule No. 5.

[Docket No. RI65-491 etc.]

MARATHON OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

FEBRUARY 5, 1965.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however*, That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 24, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Docket Nos.
RI65-491..	Marathon Oil Co., 539 South Main St., Findlay, Ohio. Attn: Mr. R. Joseph Opperman.	24	5	El Paso Natural Gas Co., (La Plata Area, Blanco Field, San Juan County, N. Mex.).	$196	1-7-65	[2] 2-8-65	[3] 2-9-65	[6] 14.0 [6] 14.0	[4][5][6][7][8] 14.0536 [6][9] 14.2486	RI64-519. RI64-519.
RI65-492..	Marathon Oil Co. (Operator), et al.	55	3	El Paso Natural Gas Co. (Kutz Canyon Area, San Juan County, N. Mex.) (San Juan Basin Area).	910	1-7-65	[2] 2-8-65	[3] 2-9-65	[6] 14.0 [6] 14.0	[4][5][6][7][8] 14.0536 [6][9] 14.2486	RI64-550. RI64-550.

[2] The stated effective date is the effective date requested by Respondent.
[3] The suspension period is limited to 1 day.
[4] Tax reimbursement increase.
[5] Pressure base is 15.025 p.s.i.a.
[6] Rate includes 1.0 cent per Mcf added to reflect minimum guarantee for liquids.
[7] Rate applicable to residue gas.
[8] Rate reflects partial reimbursement for 0.55 percent increase in New Mexico Emergency School Tax.
[9] Rate applicable to gas lost in pressure (plant fuel and shrinkage). Includes 2.55 percent partial tax reimbursement for increase in New Mexico Emergency School Tax

Marathon Oil Co. and Marathon Oil Co. (Operator), et al.'s (both referred to herein as Marathon) proposed increased rates for sales to El Paso Natural Gas Co. (El Paso) reflect partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax which was increased from 2.0 percent to 2.55 percent effective April 1, 1963. The passage of such tax legislation has been the subject of controversy between El Paso and its suppliers. Marathon's interpretation of the New Mexico tax legislation, with which El Paso agrees, is that the total 2.55 percent tax is considered to be a new tax only for that portion of the gas converted to liquids (shrinkage volumes) and that the 0.55 percent tax increase levied in 1963 relates to the remaining net volumes. The sales involved herein are well-head deliveries and El Paso processes the gas for liquids.

Marathon's present effective rate for the two sales involved herein is 14.0 cents per Mcf, which includes a 1.0 cent per Mcf minimum guarantee for liquids. Marathon proposes to increase said rate to 14.2486 cents per Mcf, which represents tax reimbursement based on the 2.55 percent level and applicable only to shrinkage volumes, and to increase the rate to 14.0536 cents per Mcf, which represents tax reimbursement based on the 0.55 percent level and applicable to the remaining or net volumes. The minimum 1.0 cent per Mcf liquid guarantee is excluded from the tax computation but is included in the total rate. Since Marathon's rate changes are limited to tax reimbursement applicable to rates already effective subject to refund it is believed that such proposed rate changes should be suspended for one day from February 8, 1965, the proposed effective date.

The proposed increased rates and charges exceed the applicable area price level for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

[1] Does not consolidate for hearing or dispose of the several matters herein.

[F.R. Doc. 65-1557; Filed, Feb. 12, 1965; 8:45 a.m.]

[Docket No. CP65-227]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of Application

FEBRUARY 5, 1965.

Take notice that on January 27, 1965, Mississippi River Transmission Corp. (Applicant), St. Louis, Mo., filed in Docket No. CP65-227 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to install during calendar year 1965 and operate up to 900 additional horsepower of compression in the Woodlawn Field, Harrison County, Tex.

The application states that the proposed compressor facilities are required in order to enable Applicant to maintain deliverability from dedicated reserves in the face of continued pressure declines in the field and individual wells.

The estimated cost of Applicant's proposed construction is $158,290, and will be financed with cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before March 2, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-1558; Filed, Feb. 12, 1965; 8:45 a.m.]

[Project Nos. 2363, 2360]

NORTHWEST PAPER CO. AND MINNESOTA POWER & LIGHT CO.

Order Granting Rehearing and Providing for Hearing

FEBRUARY 5, 1965.

The Northwest Paper Co. on January 8, 1965, and the Minnesota Power & Light Co. on January 11, 1965, filed applications for rehearing and stay of orders dated December 11, 1964, issuing licenses for Northwest's Cloquet project, Project No. 2363, and Minnesota's St. Louis River project, Project No. 2360, constructed hydroelectric developments located in the St. Louis River basin in Minnesota. The applications for rehearing allege error with respect to the Commission's finding that the projects are subject to the Commission's licensing jurisdiction within the meaning of section 23 (b), the dating of the license, and certain license conditions.

The Commission finds: It is appropriate and in the public interest in administering Part I of the Federal Power Act (16 U.S.C. 793-821) that rehearing of the above-described orders be granted and that the issues raised on rehearing be set for consolidated hearing.

The Commission orders: (A) The Northwest Paper Co.'s and Minnesota Power & Light Co.'s applications for rehearing, filed respectively on January 8 and 11, 1965, of the orders dated December 11, 1964, issuing licenses for Northwest's Project No. 2363 and Minnesota's Project No. 2360 hereby are granted.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 4(e), 10(a), 23(b) and 308 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held at a time and place to be fixed by notice of the Secretary respecting the matters involved in and the issues presented.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-1559; Filed, Feb. 12, 1965; 8:45 a.m.]

[Docket No. CP65-224]

SOUTH GEORGIA NATURAL GAS CO.

Notice of Application

FEBRUARY 5, 1965.

Take notice that on January 25, 1965, South Georgia Natural Gas Co. (Applicant), Thomasville, Ga., filed in Docket No. CP65-224 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities and the transportation and sale of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate approximately 151.2 miles of natural gas pipeline, varying in diameter from 8 inches to 2 inches, extending from a point of connection with Applicant's existing system near Weston, Ga., to Bainbridge, Ga., together with metering, regulating and related facilities necessary for delivery of gas to proposed customers.

The application states that the proposed facilities will be utilized to provide increased volumes of natural gas to existing customers and initial service to nine new resale customers and one new direct sale industrial customer. Applicant seeks authorization for a total of 52,886 Mcf of firm peak day gas for the 1967-68 heating season.

The estimated cost of Applicant's proposed facilities is $2,796,834, and will be financed with proceeds from the issuance of First Mortgage Pipe Line Bonds and from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before March 1, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-1561; Filed, Feb. 12, 1965; 8:45 a.m.]

[Project No. 405]

SUSQUEHANNA POWER CO. AND PHILADELPHIA ELECTRIC POWER CO.

Notice of Application for Amendment of License

FEBRUARY 8, 1965.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by The Susquehanna Power Co. and Philadelphia Electric Power Co., 1000 Chestnut Street, Philadelphia, Pa., 19105, for amendment of the license for Conowingo Project No. 405, located on the Susquehanna River in Lancaster, Montgomery and York Counties, Pa., and Cecil and Harford Counties, Md.

The licensees seek amendment of the license to include the following two additional conditions: (1) The Conowingo Reservoir shall be available to Project No. 2355, Muddy Run, as a source of water and as a lower pool for the period of the Muddy Run license; and (2) The operation of the Conowingo Project shall be such as not to affect injuriously the operation of the Muddy Run Project during the period of the Muddy Run license. The license for the Muddy Run Project was issued to Philadelphia Electric Co. for a period of 50 years, effective September 1, 1964.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is March 23, 1965. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-1562; Filed, Feb. 12, 1965; 8:45 a.m.]

[Docket Nos. CI62-124,[1] CI61-1043]

VALLEY GAS TRANSMISSION, INC., ET AL.

Notice of Applications

FEBRUARY 5, 1965.

Take notice that on August 3, 1961, Valley Gas Transmission, Inc. (Valley Gas), 583 M & M Building, Houston 2, Tex., filed in Docket No. CI62-124, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texkan Oil Co. (Texkan) and the delivery thereof to Tennessee Gas Transmission Co. (Tennessee Gas) in Brooks and Jim Wells Counties, Tex., all as more fully set forth in the application on file with the Commission and open to public inspection.

Take notice that on January 13, 1961, as supplemented on June 7, 1961, Richard M. Finder d.b.a. Texkan Oil Co. (Operator), et al., 2900 Southland

[1] Valley Gas determined to be an interstate pipeline in Docket No. CI60-542 by order of Commission issued July 27, 1962.

Center, Dallas, Tex., filed in Docket No. CI61-1043, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Tennessee Gas Transmission Co. from production in the East Alice Field, Jim Wells County and Alta Mesa Field, Brooks County, and delivered to Tennessee in said counties, all as more fully set forth in the application and supplement thereto on file with the Commission and open to public inspection.

Valley Gas proposes to transport for Texkan 30,000 Mcf of natural gas monthly produced in Jim Wells County, and 30,000 Mcf per month of gas produced in Brooks County, all in Texas, to points of delivery on the system of Tennessee Gas in said counties. Valley Gas proposes to charge Texkan 2.0 and 3.0 cents per Mcf for gas deliveries from Jim Wells County, and Brooks County, respectively.

These matters are ones that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate these applications for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on these applications provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before March 4, 1965.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-1563; Filed, Feb. 12, 1965; 8:46 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN YUGOSLAVIA

Entry and Withdrawal from Warehouse

FEBRUARY 9, 1965.

Under the terms of a separate exchange of letters dated October 5, 1964, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, certification procedures have been instituted with respect to cotton textiles in certain categories including Categories 18-19, produced or manufactured in Yugoslavia and exported from Yugoslavia to the United States during the period November 10, 1964 through December 31, 1964.

Under a directive dated December 23, 1964 (29 F.R. 18536 of December 29, 1964) from the Chairman, President's Cabinet Textile Advisory Committee to the Commissioner of Customs, the entry and withdrawal from warehouse for consumption of such cotton textiles in Categories 18-19, licensed under certification procedures instituted by the Socialist Federal Republic of Yugoslavia is prohibited in excess of 525,000 square yards.

There is published below a letter of February 9, 1965, from the Chairman, President's Cabinet Textile Advisory Committee to the Commissioner of Customs increasing the aforementioned maximum quantity from 525,000 square yards to 785,000 square yards.

Entries and withdrawals of such licensed cotton textiles are charged against the appropriate category ceilings designated under the bilateral agreement for the twelve month period beginning on January 1, 1965 and extending through December 31, 1965.

JAMES S. LOVE, Jr.,
Chairman, Interagency Textile Administrative Committee and Deputy to the Secretary of Commerce.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

Washington 25, D.C.,
FEBRUARY 9, 1965.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C.

DEAR MR. COMMISSIONER: On December 23, 1964, the Chairman, President's Cabinet Textile Advisory Committee, directed you, whenever requested to do so in writing by the Chairman of the Interagency Textile Administrative Committee, to authorize the entry or withdrawal from warehouse for consumption not in excess of designated maximum quantities of certain cotton textiles in particular categories including Categories 18-19, produced or manufactured in Yugoslavia, and exported to the United States from Yugoslavia during the period November 10, 1964 through December 31, 1964.

The purposes of this directive is to increase from 525,000 square yards to 785,000 square yards, the maximum quantity designated in the aforementioned directive of December 23, for entries and withdrawals from warehouse for consumption of such cotton textiles in Categories 18-19.

A detailed description of Categories 18 and 19 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on October 1, 1963 (28 F.R. 10551).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of cotton textiles and cotton textile products from the Socialist Federal Republic of Yugoslavia have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of section 4 of the Administrative Procedure Act. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

JOHN T. CONNOR,
Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 65-1571; Filed, Feb. 12, 1965; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 811-42]

SCUDDER, STEVENS & CLARK BALANCED FUND, INC.

Notice of Filing of Application for Order Exempting Transaction

FEBRUARY 9, 1965.

Notice is hereby given that Scudder, Stevens & Clark Balanced Fund, Inc. ("Fund"), a Massachusetts corporation registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, has filed an application pursuant to sections 6(c) and 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act the proposed sale by the Scudder, Stevens & Clark Employees' Profit-Sharing Trust ("Trust") to Fund of Trust's portfolio securities at current market prices. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein which are summarized below.

Scudder, Stevens & Clark ("Adviser"), a partnership with principal offices in Boston and New York, is the investment adviser to the Fund and also provides investment counsel to individuals. Scudder, Stevens & Clark, Inc. ("Corporation"), an Illinois corporation 73.5 percent of whose voting stock is owned by Adviser, carries on Adviser's investment counsel business in Chicago. Corporation is an affiliated person of Adviser pursuant to section 2(a)(3) of the Act and therefore an affiliated person of an affiliated person (Adviser) of Fund. The application states that Corporation's relationship to Trust is so close that a question might arise whether the proposed transaction between Fund and Trust is prohibited by section 17(a) of the Act.

Corporation established Trust by Declaration of Trust dated December 6, 1946. The Trustees of the Trust have invested the Trust Estate in a portfolio of securities, certain of which the Trustees have liquidated and with the proceeds thereof have purchased shares of the Fund at net asset value, without a sales load, which is the price at which shares are sold to the public.

The Trustees of the Trust propose to sell the remaining portfolio securities with an aggregate market value of $320,000, as at August 31, 1964, to the Fund at current market prices. All of the securities proposed to be sold by Trust to the Fund are the securities of issuers whose securities of the same type and class are also currently held in Fund's portfolio. The aggregate dollar amount of the securities held in Fund's portfolio as of June 30, 1964, was $113,053,591. Trust proposes to pay the Federal transfer taxes on the transfer of the securities to Fund, and Fund will pay Federal issue taxes on the issuance of its shares to Trust. Trust will be liable for whatever Federal capital gains taxes may be incurred on the sale of the securities to Fund, as well as any Illinois taxes, and the tax basis to Fund of the securities to be transferred from Trust will be the price paid for them by Fund.

Notice is further given that any interested person may, not later than February 26, 1965, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-1553; Filed, Feb. 12, 1965; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 10, 1965.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 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. 39569—*Clay from Weeks, La.* Filed by Southwestern Freight Bureau, agent (No. B-8692), for interested rail carriers. Rates on clay, noibn, processed, in carloads, from Weeks, La., to Brownsville, Edinburg, Mission, and Port Isabel, Tex.

Grounds for relief—Market competition.

Tariff—Supplement 20 to Southwestern Freight Bureau, agent, tariff ICC 4481.

FSA No. 39570—*Joint motor-rail rates—Central States.* Filed by Central States Motor Freight Bureau, Inc., agent (No. 87), for interes'ed carriers. Rates on various commodities moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in central States territory.

Grounds for relief—Motor-truck competition.

Tariff—Central States Motor Freight Bureau, Inc., agent, tariff MF-ICC 1120.

FSA No. 39571—*Joint motor-rail rates—Central States.* Filed by Central States Motor Freight Bureau, Inc., agent (No. 88), for interested carriers. Rates on various commodities moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in central States territory.

Grounds for relief—Motor-truck competition.

Tariff—Central States Motor Freight Bureau, Inc., agent, tariff MF-ICC 1120.

FSA No. 39572—*Joint motor-rail rates—Central States.* Filed by Central States Motor Freight Bureau, Inc., agent (No. 89), for interested carriers. Rates on various commodities moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in central States territory.

Grounds for relief—Motor-truck competition.

Tariff—Central States Motor Freight Bureau, Inc., agent, tariff MF-ICC 1120.

FSA No. 39573—*Wrapping paper to Oakland City, Ga.* Filed by O. W. South, Jr., agent (No. A4633), for interested rail carriers. Rates on wrapping paper, noibn, other than vegetable parchment, printed or imprinted or not printed or imprinted, in packages, in carloads, from Cantonment, Fla., to Oakland City, Ga.

Grounds for relief—Market competition.

Tariff—Supplement 120 to Southern Freight Association, agent, tariff ICC S-230.

By the Commission.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-1569; Filed, Feb. 12, 1965; 8:46 a.m.]

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PART II

Department of Agriculture

Agricultural Marketing Service

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Milk in Mississippi Marketing Area

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1103, 1105]

[Docket Nos. AO-346, AO-297-A5]

MILK IN MISSISSIPPI MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Mississippi Delta marketing area and to a proposed marketing agreement and order regulating the handling of milk in the Southern Mississippi marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Jackson, Miss., on October 26-31, 1964, pursuant to notices thereof which were issued August 27, 1964 (29 F.R. 12467) and October 7, 1964 (29 F.R. 14029).

The area hereunder consideration includes areas previously regulated under Order Nos. 103 and 107 for the Central Mississippi and Mississippi Gulf Coast marketing areas, respectively. The Acting Secretary on August 27, 1964, issued an order terminating provisions of Order Nos. 103 and 107 except §§ 1103.103, 1103.107 and 1107.92 and 1107.93. This termination followed the failure of more than two-thirds of the producers participating in a referendum to approve the proposed combination of the Central Mississippi and Mississippi Gulf Coast orders into one order to be called the Southern Mississippi order. After the Assistant Secretary on August 4, 1964, issued a notice of intention to suspend or terminate these orders, two of the cooperative associations representing a substantial proportion of the producers on these markets requested a hearing on a proposed marketing agreement and order for a new Southern Mississippi marketing area consisting of the former Central Mississippi marketing area, Beat 2 of Lamar County, and Keesler Air Force Base in Harrison County, Miss.

At the time of issuance of the notice of hearing on August 27, 1964, to consider this proposed area, an invitation was also extended to interested parties to submit additional proposals to be considered at the hearing. On October 7, 1964, the Associate Administrator issued a supplemental notice of hearing which included among other proposals (1) to combine the Mississippi Delta marketing area with the proposed Southern Mississippi marketing area under one order and (2) to combine the proposed Southern Mississippi marketing area with the former Mississippi Gulf Coast marketing area under one order.

The material issues of the record relate to:

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

2. Whether marketing conditions in the areas proposed to be regulated show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the declared policy of the Act;

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

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Obligation of unregulated plants with route distribution in the marketing area;

(e) Distribution of proceeds to producers; and

(f) Administrative provisions; and

4. If the Mississippi Delta marketing area is not included as a part of the area of the order hereunder consideration what revision should be made in such Mississippi Delta order with respect to:

(a) Regulation of distributing plants operating under more than one order;

(b) Diversion of producer milk;

(c) Level of Class I price, and

(d) Classification and accounting for fortified fluid milk products.

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 commerce*. The handling of milk in the proposed Mississippi marketing area [1] is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and milk products. Within the Mississippi area, hereunder consideration, there is continuous and substantial interstate commerce in the procurement of milk from producers and the sale of fluid milk and its products to consumers.

[1] All of the area under the Mississippi Delta Order No. 105, plus the area previously under the Central Mississippi Order No. 103, Beat 2 of Lamar County and Keesler Air Force Base in Harrison County, Miss.

Procurement of milk for sale as fluid milk in the Mississippi area hereunder consideration is in direct competition with procurement of milk which is produced for the New Orleans, La., market. Approximately one-third of the milk supply for the New Orleans market is produced in the State of Mississippi in an area largely coextensive with the milkshed for this market. Whether milk is associated with the New Orleans market or the Mississippi market is in large measure dependent on whether a producer is a member of Mississippi Milk Producers Association or the Gulf Milk Association, both proponents for this order.

While Gulf Milk Association members are primarily suppliers of the New Orleans market the association does operate a bottling plant at Picayune, Miss., from which milk is regularly distributed in the Mississippi Gulf Coast and Central Mississippi areas. This plant also has fluid distribution in Louisiana. The association also operates a bottling plant at Kentwood, La., which is used primarily to process milk for military contracts in various Southeastern States. The milk supply for these two plants is largely interchangeable and is shifted between the plants to accommodate their changing requirements.

Fluid milk products are also regularly distributed in the market, in direct competition with local handlers, from plants in Memphis, Tenn., Tuscaloosa and Prichard, Ala., and New Orleans, La. One handler with a fluid milk plant at Meridian, Miss., which would be regulated by the proposed order, regularly distributes fluid milk products in the State of Alabama. Specialty milk products, such as sour cream and sour cream dips, are received from a plant in Indiana, through a broker in Wisconsin, by a number of local handlers. In addition, to meet the fluctuating requirements of the market, a proponent cooperative association imports milk from plants in Tennessee, Iowa, and Wisconsin.

Milk in excess of the market's fluid needs is regularly moved to manufacturing plants in northeastern Mississippi or to plants of Gulf Milk Association at Brookhaven, Miss., and Franklinton, La. These plants are also primary outlets for the reserve supply of the New Orleans market. Milk moved to manufacturing plants is disposed of primarily in cheese, butter, nonfat dry milk, cream, and condensed milk which compete on a national market with similar products produced throughout the country. Much of the milk moved to the Franklinton plant is separated and the skim milk portion, together with some cream, is regularly supplied to an adjacent facility operated by a proprietary handler where it is processed into cottage cheese, cheese dips, and similar products which are then widely distributed throughout the Southeastern States.

Local handlers regularly compete with out-of-State dealers in bidding to supply Federal installations in the proposed marketing area. Generally such contracts have been held either by local handlers or by New Orleans handlers.

2. *Need for an order.* Marketing conditions in the Mississippi marketing area justify the issuance of a marketing agreement or order and the issuance of such order will tend to effectuate the declared policy of the Act.

All of the area here under consideration either is now regulated (Mississippi Delta marketing area) or was until September 1, 1964, under Federal regulation (Central Mississippi and Mississippi Gulf Coast marketing areas) except Beat 2 of Lamar County. The Central Mississippi order first became effective November 1, 1954, and the Gulf Coast order on January 1, 1959. Throughout the period of regulation the Central Mississippi order implemented the orderly marketing of milk in the area to which it applied. In the Mississippi Gulf Coast order area, however, market stability was subjected to extreme pressures from factors inside and outside the marketing area.

In this respect official notice was taken at the hearing herein of the final decision of the Under Secretary issued May 15, 1964 (29 F.R. 6540). In his decision the Under Secretary found as follows:

> The Mississippi Gulf Coast marketing area lies between and immediately adjacent to the Central Mississippi marketing area and the New Orleans marketing area. In terms of Class I sales and producer receipts the market is approximately one-third the size of the Central Mississippi market and one-fifth the size of the New Orleans market. * * *
>
> Approximately 20 percent of the overall Class I sales in the Gulf Coast market are contract sales to the Keesler Air Force Base. Because of the importance of the Keesler Field contracts in the Gulf Coast market, separate regulation has been only partially effective in maintaining market stability throughout much of the period of regulation. The contracts are actively sought by eligible handlers in the three regulated markets and on numerous occasions have been held by Central Mississippi and New Orleans regulated handlers. When Gulf Coast handlers are not the successful bidders, a significant part of the local milk supply must be disposed of for other than fluid uses.
>
> The production areas of the three regulated markets are largely coextensive. Most of the producers on the Gulf Coast market have been members of the Mississippi Milk Producers Association, the predominant cooperative association in the Central Mississippi market, or the Gulf Milk Association, Inc., the predominant cooperative in the New Orleans market. Because of the general intermingling of producers of the three markets any significant difference in blended returns as between these markets sets up uneconomic incentives for shifting deliveries from one market to another. One of the principal cooperatives has, from time to time, for the purposes of equalizing returns between markets, shifted producers either in or out of the Gulf Coast market in response to the changing demand for Class I milk, depending on whether the Keesler Field contract was held by local handlers or by outside handlers. This has resulted in very substantial and erratic changes in the number of producers and in producer receipts in the Gulf Coast market. For example, in April 1959, there were 595 producers, in July 1959, 427 producers and in October 1959, 568 producers. This erratic change in producer numbers is typical of the intervening period through August 1962.
>
> The marketing situation which has followed from these supply-sales changes has required a number of amendment and suspension actions, each of which, while ameliorating the immediate situation, has been ineffective in furthering long range market stability.
>
> With the transition to farm bulk tanks and increased reserve milk supplies, the Mississippi Milk Producers Association, in an effort to implement greater marketing efficiency, assumed responsibility of hauling its member milk with a view to tailoring deliveries directly to handlers in accordance with their fluid requirements, and moving the reserve supplies of milk directly to manufacturing plants. Satisfactory negotiations were not completed with handlers, however, and as a result the bulk of the association's member milk was refused by handlers. This action reduced significantly the blended returns to all producers. The Gulf Milk Association, in an effort to bring about a blend price more competitive with the Central Mississippi and New Orleans blend prices, removed more than 150 of its member producers from the market. However, the blend price in the Mississippi Gulf Coast market which historically had been approximately 20 cents above the Central Mississippi blend, was at the time of the hearing about 20 cents below the Central Mississippi blend.
>
> Nonmember producers, who at the time of the hearing had virtually an exclusive market with local proprietary handlers, proposed and supported an individual-handler pool for the Gulf Coast market. It was their position that arbitrary and capricious action on the part of the cooperatives was the primary cause of the existing market instability. They further contended that the associations' milk was not needed in the market and that individual-handler pooling would assure essentially a Class I market to the producers then delivering to handlers' regulated plants. * * *.
>
> Because of the small size of the Mississippi Gulf Coast market in relation to the two adjacent Federal order markets and the erratic changes in Class I sales as local handlers lose or gain the Keesler Field contract, the sharing of the regional reserve supply in the past has been only partially accomplished and then only by somewhat arbitrary and often belated action on the part of the cooperative associations.

The situation in the Gulf Coast area was further complicated by the fact that a large Alabama handler who did not have sufficient sales in the area to be regulated when the order was promulgated, subsequently bought out a fully regulated handler, closed the local plant, and added its sales to his Alabama plant's market area distribution and in addition continued sales expansion in the marketing area. Under the pooling standards set forth in the order the handler operated as a partially regulated handler and hence did not pool his Class I sales along with other fully regulated handlers. The Under Secretary in his decision of May 15, 1964, concluded that the sales of the Alabama handler in the Gulf Coast area were of such importance that it was essential that they be subjected to full regulation. He further concluded that combination of the Gulf Coast and Central Mississippi orders was necessary because separate regulation of the Gulf Coast area was no longer practical.

No doubt, because of the preferred position which nonmember producers (including dairy farmers supplying the Alabama plant) held in the Gulf Coast market they did not generally support the order merger with the Central Mississippi order and in the referendum held to determine producer approval or disapproval, the necessary percentage of approval was not obtained. Accordingly, the Department on August 4, 1964 (29 F.R. 11458), issued a notice of intention to terminate the Mississippi Gulf Coast and Central Mississippi orders. The orders were terminated effective September 1, 1964.

With the termination of the two orders, two handlers previously regulated under the Central Mississippi order became fully regulated under the Mississippi Delta order. The majority of handlers, previously regulated, attained unregulated status.

Almost immediately after publication of the notice of intention to terminate the two orders producer associations representing a majority of the producers in the Central Mississippi market (including Gulf Milk Association which has a substantial interest in the Gulf Coast market by virtue of its direct distribution there) petitioned for reinstatement of regulation in Central Mississippi and Keesler Field under a single order. Subsequently the Noxubee Milk Producers Association which has membership supplying both the Delta market and the former Central Mississippi market proposed merger of the present Mississippi Delta order and the proposed Southern Mississippi order into a single order.

Probably because the Central Mississippi and the Mississippi Gulf Coast orders have been terminated only since September 1, 1964, the usual unstable market conditions which prompt requests for Federal regulation have not been evident in the proposed area. Possibly also, because producers promptly requested re-establishment of regulation, handlers did not cut off their regular producers to gain short range advantage by using cheaper outside sources of supply.

The State of Mississippi, under authority of the Milk Commission Act, as approved May 11, 1960, regulates the marketing of milk in the entire State under a combination of six State orders. These regulations are constructed and administered in a manner substantially the same as the Federal regulations effective or recently effective for the same areas. Hence, even though the two Federal regulations have terminated in the Gulf Coast and Central Mississippi areas, handlers are nevertheless required under such State orders to account and pay for their producer receipts in essentially the same manner as under the Federal regulations.

Proponents in requesting reinstatement of Federal regulation pointed out that in their opinion the State did not have authority to regulate interstate movements of milk to the extent necessary to insure continuing orderly marketing. It was their position that reinstatement of Federal regulation was essential to maintain continuing orderly marketing by insuring equity as between handlers in the cost of milk and to restore producer confidence in a continuing market for all of their milk at prices commensurate with the standards of the Agricultural Marketing Agreement Act, as amended.

While opponents of regulation took the position that the State of Mississippi was and would continue to be as effective as the Federal order in maintaining orderly marketing and furthering producer interest, it is clear that effective regulation of milk in interstate commerce can only be accomplished by Federal regulation. Official notice is taken of the bids made for the Keesler Field contract for the current quarter and the fact that a Florida handler was the successful bidder.

While it cannot be concluded with finality what prices dairy farmers supplying the milk to the Florida handler for this contract will receive, it is clear that returns will be substantially below the prices producers have in the past received for milk similarly disposed of to this installation and also well below the prices established by the Mississippi Milk Commission order regulating that area. Hence, the position of proponents that a Federal order is necessary to insure a continuing orderly market for their milk at prices commensurate with the standards of the Act is persuasive.

Without Federal regulation any handler could turn to out-of-State plants as a source of milk supply and buy milk on an opportunity basis, possibly at distress prices. Such a practice would necessarily lead other handlers to the same procurement practice in order to maintain their competitive position. This would inevitably result in unstable marketing conditions with damaging economic effects on local Mississippi producers.

It would not be in the interest of handlers, producers or the consuming public to risk the undermining of the local market before considering reinstatement of regulation. It is concluded therefore that a Federal order is needed to insure a continuing stable market and returns to producers commensurate with the standards of the Agricultural Marketing Agreement Act.

In the year immediately preceding termination of the Central Mississippi order, regulation of two plants historically associated with the Delta market changed back and forth between regulation under the Mississippi Delta and Central Mississippi orders as a result of month-to-month changes in the proportion of Class I sales made in the two markets. Because the Delta market is a small market such changes in regulation have a significant effect on blended returns to producers in that market. With termination of the Central Mississippi order, two handlers, most recently regulated under that order became fully regulated under the Delta order. However, if there were re-establishment of separate regulation in the former Central Mississippi area, the continuing shifting of regulation of plants might be expected to recur.

Both Mississippi Milk Producers Association and Noxubee Milk Producers Association are substantial suppliers of milk to handlers in the Delta marketing area and the former Central Mississippi order marketing area. To better insure continuing market stability they requested regulation under one order of the entire area now covered by the Delta order and the area covered by the former Central Mississippi order. Their position was supported by Cooperative Creamery Association, also a substantial supplier of milk to Delta handlers and in addition a fluid milk distributor. Regulation under a single order was thus proposed and supported by cooperative associations representing the majority of producers in both the Delta area and in the former Central Mississippi order area.

Because of the interrelation of the marketing of milk in the Delta marketing area and the former Central Mississippi order area, both with reference to supply and distribution, regulation should be accomplished through a single order. This will permit uniform application of regulation to all handlers operating in a common market and procuring milk from a common supply area. Unless this is accomplished it is likely that the effectiveness of the Delta order in maintaining orderly marketing may in a short time deteriorate much in the same manner as happened under the Gulf Coast order.

Such a single Federal order will contribute to orderly marketing conditions in the combined area by providing:

(1) A regular and dependable procedure through public hearings for determining prices to producers at levels contemplated by the Agricultural Marketing Agreement Act, as amended;

(2) The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(3) An impartial audit of handlers' records to verify the payment of required prices;

(4) A system for verifying the accuracy of the weight and butterfat content of milk purchased;

(5) Uniform returns to producers supplying a common market, and an equitable sharing among all producers of the lower returns for the sale of reserve milk which cannot be marketed in the Class I category; and

(6) Marketwide information on receipts, sales, prices and other data relating to milk marketing conditions in the area.

3. *Order provisions*—(a) *Scope of regulation*—(1) *Marketing area*. The Mississippi marketing area should include all of the territory presently included in the Mississippi Delta marketing area and the following Mississippi counties: Adams, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, Hinds, Jasper, Jefferson, Jefferson Davis, Jones, Lamar, Lauderdale, Lawrence, Lincoln, Madison, Marion, Neshoba, Newton, Perry, Rankin, Scott, Simpson, Smith, Walthall, Warren, and Wayne, all waterfront facilities connected therewith, and including all territory geographically within such counties occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments plus all territory within Harrison County, Miss., occupied by the Keesler Air Force Base, a military installation.

Four dairy farmer cooperative associations proposed that a new order be issued to cover a marketing area which would include the marketing area of the Mississippi Delta order and 28 Mississippi counties in their entirety and Keesler Air Force Base, located in Harrison County. The area covered by this proposal, besides the present Delta marketing area, would include the area previously covered by the Central Mississippi Federal milk order. In addition, there would be included Beat 2 of Lamar County and Keesler Air Force Base previously included in the Mississippi Gulf Coast Federal milk order. The four cooperative associations making this proposal represent a substantial majority of producers regularly supplying milk to the area they proposed.

A proposal to include all of the former Gulf Coast marketing area in the marketing area of any order recommended as a result of this proceeding, made by Gulf Coast Dairymen's Association, 12 handlers and 14 individuals, was included in the hearing notice.

From the previous discussion of need for an order it is clear that the situation in the former Gulf Coast order area was complicated by the bidding on the Keesler Air Force Base, the shifting of supplies, and the large portion of route sales made by a handler not fully regulated under the order.

The transition to farm bulk tanks and associated changes in the handling of milk wrought much conflict among producers and between producers and handlers which has substantially changed the structure of that market. It is clearly evident that the efforts of the major cooperatives, then the primary suppliers of the former Gulf Coast order market, to maintain a desirable alignment of producer returns as between that market and the New Orleans and former Central Mississippi markets were neither understood nor appreciated by many producers. In addition, the unavoidable long delay in a decision in the matter of an order merger and adoption of more appropriate pooling requirements (which delay was directly attributable to the uncertainty as to the impact of the Supreme Court's decision in the Lehigh case on the Federal order program) permitted a previously partially regulated handler to greatly expand his sales in the then Gulf Coast order area without change of status under the order. Dairy farmers supplying such handler have not been identified with bona fide efforts to maintain or re-establish Federal order regulation. Further, on this record a spokesman for the Gulf Coast Dairymen's Association indicated he would dispense with Federal regulation. Accordingly, it must be concluded that the majority of dairy farmers now serving the Gulf Coast market do not desire Federal regulation.

This situation could render difficult the drafting of an appropriate regulation except for the fact that there is only a very nominal overlap of route sales between handlers serving the former Gulf Coast order area and handlers serving other territory herein proposed to be included in the marketing area. Handlers previously regulated under the Gulf Coast order, with the single exception of Gulf Milk Association, have no significant regular route sales in the area herein proposed for regulation. Handlers who would be regulated under the proposed order (other than Gulf Milk Association) with a single exception have no significant sales in the Gulf Coast area.

That handler supported inclusion of the entire Gulf Coast area in the marketing area, alleging that he had 10 percent of the total route sales (excluding contract sales) in the Gulf Coast area. He further concurred with a suggestion that the extent of his sales there might approximate 477,000 pounds monthly.

Statistics introduced in evidence by the market administrator, based on handler reports filed under the Gulf Coast order, show that total Class I sales in the Gulf Coast market in 1963 (including contract sales) averaged 5,770,470 pounds monthly. While the precise volumes of contract sales to Keesler Field are not known, the hearing record establishes that such sales average slightly in excess of 1,000,000 pounds monthly. On that basis other Class I sales in the area previously covered by the Gulf Coast order could not exceed 4,770,470 pounds monthly.

The market administrator's statistics also establish that route sales (not contract sales) by Central Mississippi handlers into the Gulf Coast order area in 1963 averaged only 127,407 pounds monthly. Hence if all of such sales are attributed to the proponent handler he would have had less than 3 percent of the regular route sales (contract sales excluded) in that area. It is concluded therefore that this handler's regular route sales in the area previously covered by the Gulf Coast order are less than 3 percent of the total of such sales in that area and constitute substantially less than 10 percent of his total business. This nominal intermarket relationship does not justify extension of regulation to include the former Gulf Coast area outside Keesler Air Force Base.

Thus, it is a practical consideration that a marketing area not including the former Gulf Coast area outside Keesler Air Force Base would include very nearly all the sales area of handlers to be regulated. The small additional coverage to be gained by including the entire Gulf Coast is outweighted by other considerations. It is apparent, in the first place, that the proposed area including the Delta area, Keesler Air Force Base and the former Central Mississippi order area can be dealt with separately from the Gulf Coast area. While the inclusion of the entire Gulf Coast in the proposed marketing area would almost completely encompass the entire sales area of handlers which would be brought under regulation in the Central Mississippi and Delta areas, it would bring under regulation also the Alabama based handler previously described. This handler has approximately 20 percent of the regular route sales in that area and the larger portion of his sales are in an area not considered here for regulation.

The Gulf Coast Dairymen's Association insisted that, if any Federal regulation were necessary consideration of regulation be only on the basis of including the Gulf Coast area. It is clear, however, that their proposal was not made in the interest of securing the benefits of regulation. In fact, the spokesman for that organization indicated that his motive was the opportunity to vote against any regulation which might be recommended as a result of the hearing. Clearly, the association evidenced no substantial bona fide interest in milk marketing in Mississippi other than in the Gulf Coast. Further, there are no significant sales into the former Central Mississippi area by former Gulf Coast order handlers excepting those of the Picayune distributing plant. This plant is operated by one of the cooperative associations supporting the Mississippi marketing area. In the light of these considerations the possible application of regulation in the Gulf Coast area outside Keesler Air Force Base is a separate consideration but not supported in this record adequately to justify such application.

Keesler Field presents a special problem in that its importance as an outlet for the milk of Mississippi producers and hence the general economic welfare of the State cannot be overlooked. Keesler Field contract sales are an amount equivalent to approximately 20 percent of the total Class I sales in the entire Gulf Coast area and as previously indicated exceed 1,000,000 pounds monthly. Bids for the Keesler Field business are in three parts, i.e., the messhall (troop issue), the commissary and the post exchange. The messhall and commissary business are reserved for small business and Gulf Milk Association was the only handler under the former Gulf Coast order qualified to bid on those contracts. Throughout the period of regulation these contracts were held by that association, a Central Mississippi handler or a New Orleans handler. As previously indicated there has been a considerable shifting of producers among these markets to meet the supply requirement of the successful bidder.

Unless the installation is included in the marketing area regulated handlers will be at a competitive disadvantage in bidding on the contracts. While Gulf Milk Association by virtue of its several plants and flexibility in adjusting supplies among its plants could and undoubtedly would be able to obtain the contract if it so desired, the removal of milk from regulated status and the lower returns realized on such milk would have a significant effect on returns to all producers in Mississippi and/or the New Orleans regulated markets. This could require an upward adjustment in the Class I price in the regulated markets to insure a continuing adequate supply of milk for those markets. It would not be appropriate to require local consumers to subsidize the sales to the military installation and accordingly to insure an orderly and stable market and equity among producers the Keesler Field installation must be included in the marketing area.

The pool plant standards hereinafter recommended will permit qualified handlers in the Gulf Coast market to bid in the Post Exchange contract at Keesler Field without coming within the orbit of regulation. The Post Exchange contract is much smaller than the other two contracts and accordingly is not as widely sought. It is concluded, therefore, that regulated handlers will not be disadvantaged in bidding on this contract in competition with local handlers in the Gulf Coast market. Under this arrangement the regulation will have no substantial adverse impact on local Gulf Coast handlers or the dairy farmers from whom they receive milk. At the same time, the pooling standards will deter, in this marketing area, a recurrence of the situation which occurred under the former Gulf Coast order when a partially regulated handler increased his business to encompass 20 percent of the route sales without changing his status under the order.

There is a substantial inter-relation between the handling of milk in the Mississippi Delta marketing area and other parts of the proposed area, previously regulated under the Central Mississippi order. During 1963, for instance, Order No. 105 handlers disposed of about 23 percent of their Class I disposition in the Central Mississippi marketing area.

During 1963 and early 1964 two handlers shifted regulation several times between the Mississippi Delta and Central Mississippi orders as the proportion of their sales in the respective markets shifted. However, they maintained status as regulated handlers under the Central Mississippi order during most months of 1964 prior to the termination of the Central Mississippi order. Upon termination of the Central Mississippi order these plants have again become regulated under the Mississippi Delta order.

Substantial Class I sales are made by Central Mississippi handlers into the Mississippi Delta marketing area. During 1963 more than 17 percent of the Class I milk disposition in the Order No. 105 marketing area was by handlers regulated under the Central Mississippi order. The quantity of milk represented by such disposition averaged about 1.2 million pounds per month representing about 9½ percent of the Class I disposition of Central Mississippi order handlers.

In large measure the Delta and the former Central Mississippi market areas draw from a common supply area and three of the proponent cooperatives for a single order are substantial suppliers of milk to handlers in both areas. If a separate regulation were re-established in the Central Mississippi area it is apparent that at least two present Delta handlers would shift to regulation under the new order. This would very substantially reduce the volume of milk pooled under the Delta order and could result in a substantial reduction in returns to producers in that market.

Because of the inter-relationship of both supplies and sales between the two areas, orderly marketing can be assured only by a single regulation. As later discussed, this can be accomplished with no material effect on handler costs for milk through the application of appropriate location differentials which retain essentially the identical pricing at each plant location which is presently effected under the Delta order.

Beat 2 of Lamar County is a small area surrounded by the former Central Mississippi marketing area served exclusively by handlers who would be regulated by the proposed order. Its inclusion could have no adverse effect on any handler and will simplify the reporting and record keeping required of regulated handlers.

The issuance of a single order to regulate the handling of milk in the present Delta marketing area, the former Central Mississippi marketing area, Beat two of Lamar County and Keesler Air Force Base is necessary to promote efficient orderly marketing of milk for such areas. It will facilitate the movement of milk supplies to meet the varying needs of handlers regardless of their location in the entire regulated area. It will avoid the confusion and concern generated among producers by shifting from one regulation to another. It will make more efficient the application of the order regulation by reducing the accounting problems which would exist on intermarket movements if two orders were issued. The entire territory will comprise a practicable marketing area. It is an area within which nearly all of the fluid sales are made by handlers who would be regulated under the proposed marketing order. Further, the handlers who would be regulated by virtue of their sales within the marketing area, except for Gulf Milk Association and one other handler previously described have essentially all of their Class I disposition in the proposed area. Health regulations in the proposed marketing area are uniform. They are patterned after the standards code of the U.S. Public Health Service and administered by county health departments under State supervision.

(2) *Milk to be priced and pooled.* The minimum class prices under the order are intended to apply to that milk which is produced in compliance with the Grade A inspection requirements of a duly constituted health authority and which is regularly received at plants primarily engaged in the fluid milk business with significant disposition in the marketing area. Such plants should be those which process milk and have a substantial distribution on retail or wholesale routes in the marketing area or plants which are regular and substantial suppliers of milk to such distributing plants.

This milk may be identified by appropriate definition of the terms "route disposition," "plant," "distributing plant," "supply plant," "pool plant," "nonpool plant," "handler," "producer," "producer-handler," "producer milk," "other source milk," and "fluid milk product."

In order for marketwide pooling, as hereinafter recommended, to achieve its stabilizing influence to the fullest extent, the returns from the sale of milk should be shared by those dairy farmers who constitute the regular supply of milk for the market. It is essential, therefore, to provide specific standards of performance which may be used to determine which plants and what milk constitute the regular sources of supply and therefore should be fully subject to regulation. Such plant standards are set forth in the order and apply uniformly to all plants wherever located. Any plant, regardless of location, may be brought under regulation by performing in the manner prescribed. Any plant may be relieved from regulation by no longer operating in a way that brings it within the scope of the order. Thus, whether a plant will be fully or partially regulated, is determined by the decision of the plant operator.

Plant. A plant definition is needed to assist in defining what operations are to be subject to regulation and to simplify the drafting of the other order provisions. Under the "plant" definition herein provided all of the operations conducted on the premises of an establishment operated as a single unit for the purpose of receiving milk for assembly and transfer, or for processing and packaging milk and milk products are operations of a plant. A facility or establishment functioning only as a transfer point for transferring milk from one tank truck to another tank truck, or as a distribution depot for storage of packaged fluid milk products in transit for route dispositions should not be considered to constitute a plant. Plants at which fluid milk products are processed and packaged and from which Grade A fluid milk products are disposed of on routes in the marketing area are termed "distributing plants". Plants which supply milk to distributing plants are termed "supply plants".

Route disposition. To assist in the identification of those plants which are to be subject to full regulation a "route disposition" definition is provided. Route disposition is defined as any delivery of a fluid milk product from a plant to wholesale or retail outlets other than a delivery to another plant. Disposition by a vendor, from a plant store or through a vending machine, is treated as a route disposition of the plant from which such disposition occurs.

Pool plant. To qualify for pooling, a "distributing plant" should be required to have a total route distribution, both inside and outside the marketing area during the month, of an amount equal to 50 percent or more of its Grade A receipts from dairy farmers, including farm bulk tank milk received for which a cooperative is the responsible handler. In addition such a plant should be required to dispose of as Class I route disposition in the marketing area during the month, either a minimum of 20 percent of its total Class I route disposition or an average of not less than 7,000 pounds per day. A plant meeting either of these standards is sufficiently identified with the regular market supply such that it should participate in the marketwide pool.

Pool plant standards are needed to differentiate between those plants substantially identified with the market as part of the regular supply and other plants. This is necessary in the interest of achieving the primary purpose of the order to assure an adequate supply of milk for the market. Under the market pooling process, the returns for all milk pooled is distributed among all producers delivering to plants which meet the minimum requirements for pooling. Thus, unless these minimum requirements are related to the functioning of these plants as substantial suppliers (providing substantial supply for the market), the returns for Class I disposition in the market would be dissipated among dairy farmers who do not constitute part of the regular supply for the market.

The Mississippi Delta Order No. 105 presently provides that a distributing plant shall be pooled in any month in which such plant's Class I route disposition in the marketing area is 20 percent or more of its receipts from dairy farmers and supply plants, if such plant's total route disposition equals or exceeds 50 percent of such receipts. The former Central Mississippi Order No. 103 provided full regulation for a plant with Class I route disposition equal to at least 50 percent of its producer receipts and receipts from pool plants if 20 percent of the Class I milk was disposed of as Class I route dispositions in the marketing area.

It is desirable that qualification of a pool distributing plant be determined on the basis of disposal of at least half of its receipts from producers as Class I milk whether inside or outside the marketing area. It is not necessary that receipts from supply plants be included in the determination of the qualification of distributing plants. Producer "status" for the dairy farmers shipping to the distributing plant would then be dependent upon the volume of shipments from the supply plants. A distributing plant should qualify as a pool plant on the basis of Class I disposition in relation to receipts from its producers. Any plant from which less than 50 percent of receipts from dairy farmers is disposed of as Class I milk should not be considered to be primarily engaged in the fluid milk business.

There should be a dual basis for determining a distributing plant's association with the market sufficient to require pooling. One basis would be in terms of the average quantity per day distributed in the marketing area, and the alternative basis should be the percentage of the plant's Class I route disposition made in the marketing area. Both standards are needed to assure that the order will fully regulate all those plants necessary to assure orderly marketing conditions.

A distributing plant which disposes of as route distribution within the marketing area a volume of Class I milk equal to 7,000 pounds per day is an important competitive factor in the market and should be subject to full regulation. Such a volume would approximate one percent of the estimated volume of Class I disposition of all handlers who would be fully regulated by the order. If this amount is disposed in the marketing area by a single plant, it would be an important competitive factor affecting other regulated handlers and producers on the market. Experience under the former Mississippi Gulf Coast order has clearly demonstrated the advantage that a large handler can have under standards based only on the percentage of a plant's receipts sold as Class I in the marketing area. On this basis he was able to expand sales in the market while continuing to operate under only partial regulation. A percentage basis as used in the Delta order would be subject to the same difficulty.

It is necessary that all handlers qualified by having 50 percent of dairy farmer receipts used in Class I and with substantial distribution in the marketing area be required to equalize their utilization with the marketwide pooling arrangement if the order is to be effective in furthering the intent of the Act. The 7,000-pound alternative pooling standard will tend to implement this conclusion. At the same time it will provide sufficient flexibility to the regulation that qualified dealers in the former Gulf Coast market will not be subjected to full regulation in the event they should be successful in securing the Post Exchange contract at Keesler Field.

Under normal circumstances, most plants associated with this market would qualify for full regulation on the basis of disposition of the average of 7,000 pounds per day of Class I milk in the marketing area. On the other hand, use of the 20 percent standard based on the volume of Class I milk distributed by the plant will assure full regulation of a small-volume plant with a substantial part of its Class I business in the regulated market. Disposal of 20 percent of the plant's route disposition in the marketing area is sufficient to establish the plant as essentially associated with the market and appropriately subject to full regulation. Plants with a lesser percentage of disposition in the marketing area, and less than the quantity standard herein specified, would be subject to partial regulation.

At times a plant qualifying as a fully regulated distributing plant under this order may similarly qualify under another order. To minimize unintended shifts in plant regulation, the order should permit a distributing plant with a greater proportion of its Class I disposition in another market, but which was pooled under this order in the most recent months, to retain pool status under this order until the third consecutive month in which greater disposition is made in the other marketing area, if the provisions of the other order do not make pooling mandatory under that order.

Both proponent cooperatives and a Delta regulated handler proposed the provision herein provided for plants meeting the requirements of more than one order. Although the handler testified that the problem would be substantially reduced with the consolidation of the proposed areas, he recognized the merit in providing in the order for this shifting of plants between orders.

A distributing plant meeting the pooling requirements of more than one order should normally be regulated under the order covering the area in which it has the greatest proportion of its distribution. However, recognition should be given to the confusion that could result if a plant, with almost equal utilization in this and another Federal order market were to shift back and forth from one pool to the other with minor changes in its distribution pattern. A handler operating a pool distributing plant which has been subject to regulation under this order and continues to meet the pool standards provided herein, should not become subject to another order until it has disposed of more milk as route disposition in such other marketing area than in the Mississippi marketing area for three consecutive months. This will afford the handler reasonable notice that regulation of his plant is shifting from one order to another, and will afford him the opportunity to make adjustments in his business if he desires to do so. Provision also should be made for exempting a plant from regulation under this order until the third month in which it disposes of a greater portion of milk in the Mississippi marketing area than in the area of the order to which it has been subject, if such other order contains a provision similar to the one provided herein.

"Supply plants" are the other category of plants for which standards for pooling must be provided. There are plants which supply bulk milk on a regular or supplemental basis to distributing plants in this marketing area. One plant at State College, Miss., has regularly supplied milk to distributing plants in the Delta portion of the marketing area. Mississippi Milk Producers Association operates a supply plant at Jackson, Miss., which under the former Central Mississippi order received milk from daily farmers for collection and shipment to distributing plants and other outlets.

A supply plant would be a pool plant from which 50 percent or more of the receipts of Grade A milk from dairy farmers is regularly delivered to distributing plants each of which disposes of, as Class I milk, a volume not less than 50 percent of its receipts of Grade A milk and which have route sales in the marketing area of 20 percent of total Class I sales disposed of or 7,000 pounds, whichever is less. Such a plant is substantially associated with the Mississippi market and the dairy farmers supplying such plants should therefore participate in the marketwide pool. Supply plants from which less than 50 percent of their producer milk receipts are shipped to qualified distributing plant(s) cannot be considered as primarily associated with this market and should not participate in the pool.

Any supply plant meeting the 50 percent shipping requirements in each of the months of September through January should retain pooling status during each of the following months of February through August, even without meeting the shipping requirements unless the operator of such a plant elects nonpool status.

The extent to which a distributing plant draws upon supply plants for milk supply normally varies considerably according to the season of the year. This is due to the seasonal changes in production and milk sales. Accordingly, a supply plant cannot be expected to ship as much milk in the months of higher production as in the fall months. Such supply plant nevertheless is a necessary part of the market supply and should be so recognized by according pool status during the months of February through August even if shipments are not made. This will provide producer status for dairy farmers shipping to the plant who are thus recognized as regular suppliers of the market. The plant should be permitted to withdraw from pool status, however, at the operator's option in any of the months of February through August in which it does not ship 50 percent of its receipts as described. In such case it would not regain pool status until it again met the 50 percent shipping requirement.

Cooperative associations representing producers in the consolidated market operate balancing plants for distributing milk to handlers in accordance with their day-to-day requirements and for the assembly of the market's reserve supply for movement to manufacturing outlets. Since virtually the entire market has converted to farm bulk tank it is generally unnecessary that milk needed by distributing plants move through an assembly plant. Therefore, it is unlikely that the cooperatives' plants would normally meet the prescribed shipping requirements for supply plants except through uneconomic movement of milk through such plants solely for the purpose of maintaining pool plant status. While cooperatives dispose of the market's reserve supply to outside Class I milk outlets to the extent that such outlets are available, the milk so disposed of, as well as the milk for which no Class I milk outlet is available and which is moved to manufacturing plants, is supplied by dairy farmers who are regular producers for the local market. Accordingly, it should be accounted for in the same manner as all other producer milk received at pool plants under the order. This may be accomplished by providing specific pooling standards for any nondistributing plant operated by a cooperative association. The performance standards for such a plant should be such that only a plant operated by a cooperative association whose major function is supplying milk to the market would qualify and participate in the marketwide pool. This can best be accomplished by designating as a pool plant any nondistributing plant operated by a cooperative association, if 60 percent or more of such cooperative member producers' milk is received during the month as producer milk at pool distributing plants.

Under usual circumstances an association would desire to pool its balancing plants; nevertheless, provision should be made whereby such plants may acquire nonpool status under the order if the association should so elect and the plant(s) does not meet the shipping requirements for pooling. It is apparent that such a decision would be made only under circumstances where the plant had substantial Class I sales in another market. The order should not permit an association to pool its reserve milk supply unless all of the Class I sales associated with such reserve are also pooled. Accordingly, it is provided that should an association elect nonpool status under the order for its plant in any month, such plant would be designated a nonpool plant for each of the succeeding 11 months in which it did not qualify for pooling under the regular supply plant shipping requirements.

Because all producer milk must be fully regulated regardless of where it is sold, it is not feasible to differentiate, for the purpose of regulation, between handlers' Class I sales inside and outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process jeopardized.

If only his "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce his average cost of all of his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. In short, unless all milk of such a handler is fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and would lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payments to the producers who supply the market.

It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition. Further, that the level of class price should be identical on Class I sales inside and outside the marketing area.

The essentials of the classified pricing plan for the Mississippi order and generally applicable to all Federal orders issued by the Secretary are to establish one level of price to be paid by handlers for milk which is sold as milk or milk products for fluid consumption and another lower price (or prices) for the necessary surplus of the market which is disposed of in lower valued manufactured products.

It is necessary that the Class I and Class II prices effective under the Mississippi order shall be established at a level which will bring forth a sufficient supply to meet the demands of milk for the particular marketing area but not necessarily to fulfill the requirements of outside markets. Nevertheless, handlers who are regulated by virtue of their sales in the marketing area may have varying proportions of their sales outside the regulated area. This is a situation normally unavoidable even in the establishment of a new marketing area. Sales areas of regulated and not fully regulated handlers may overlap, and it would be rarely possible, if at all, to find a line of demarcation around an entire marketing area such that no overlap occurs. Other considerations in establishment of a marketing area may also preclude inclusion of all sales areas of fully regulated handlers.

The problem of establishing a price to adequately supply the marketing area is thus affected by the activity of handlers in selling milk outside the regulated area and in procuring milk for such sales. There is no basis in this price determination for discrimination between milk sold inside and outside the marketing area. The milk sold outside by a regulated plant is processed in the same plant and is produced under similar conditions as milk sold in the marketing area. Thus, the milk moving through the regulated handler's plant, whether it is sold inside or outside the marketing area, is part of the same supply and demand situation upon which proper price level determination must be made.

If the price to farmers were higher for milk sold inside than for milk sold outside the marketing area, returns for disposition in the area would be bearing the greater burden of providing the incentive for milk production for both. To the extent such discrimination in pricing at the procurement level if reflected in higher prices to consumers inside than outside the marketing area, consumers in the marketing area will be subsidizing consumers outside the marketing area.

Further, it is not intended that Federal regulation be susceptible of manipulation to permit the use of adjacent outside markets as a dumping ground for milk in excess of a market's needs. The fixing of a lower price for milk sold in other markets could have a depressing effect on the price paid farmers by unregulated distributors in such markets. Such action would tend to lower blended returns to dairy farmers supplying the unregulated handlers.

Limited quantities (as provided) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of "partial" regulation to plants having a very small association with the market (less than required for market pooling) would not jeopardize marketing conditions within the regulated marketing area. Official notice was taken on the record of the June 19, 1964, decision (29 F.R. 9109) supporting amendments to several orders, including the Mississippi orders.

The operator of this partially regulated plant is afforded the option of: (1) Paying an amount equal to the difference between the Class I price and the weighted average value of producer milk with respect to all Class I sales made in the marketing area, (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area, or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

Nonpool plant. A definition of "nonpool plant" is included to facilitate reference to specific types of nonpool plants elsewhere in the order. This definition conforms to the provisions adopted in other Federal orders as the result of the joint public hearing held in St. Louis, Mo., on January 8-11, 1963, for the 3 Mississippi and 24 other Federal order markets. The "nonpool plant" definition includes such categories as "other order plant", "producer-handler plant", "partially regulated distributing plant", and "unregulated supply plant". These nonpool plants are defined as follows:

(1) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(2) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(3) "Partially regulated distributing plant" is a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month; and

(4) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a pool distributing plant during the month, but which is neither an other order plant nor a producer-handler plant.

Handler. The impact of regulation under an order is on handlers. A handler definition is necessary to identify those individuals from whom the market administrator must receive reports, or who have financial responsibility for payment for milk in accordance with its classified use value. As herein defined the definition includes (a) persons operating pool plants; (b) persons operating partially regulated distributing plants; (c) a cooperative association with respect to milk diverted to nonpool plants; (d) a cooperative association with respect to milk which is delivered to a pool plant in a bulk 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; (e) persons operating unregulated supply plants; and (f) a producer-handler or other order plant operator.

The handler who receives milk from producers is held responsible under the terms of the order for reporting receipts and utilization of such milk and for proper payment to producers and to the pool. Inclusion in the handler definition of the operator of any partially regulated distributing plant or unregulated supply plant is necessary in order that the market administrator may require the necessary reports to determine the continuing status of such individuals and in the case of distributing plants, the extent of their obligation, if any, to the producer-settlement fund.

The several cooperative associations whose members are suppliers of milk for the market hereunder consideration generally assume the responsibility of balancing their buying handlers supplies with such handlers' needs for fluid milk. Milk not needed for fluid uses can generally be most economically handled by diversion directly to manufacturing plants. Accordingly, it is desirable that a cooperative association be accorded handler status for milk which it caused to be diverted to nonpool plants for the account of such association. This provision is included in the present Mississippi Delta order and is necessary in the proposed order to facilitate the orderly handling of the market's reserve milk supply.

The second role of a cooperative association as a handler without a plant is with respect to its operations in delivering the milk of its producer members directly from the farm to pool plants. Under the current arrangements for marketing the milk of producers using farm bulk tanks, the amount of milk delivered of any such producer, and the butterfat tests thereof, can be determined only by measurement at the farm and from butterfat samples taken at the farm. After the milk has been pumped into the tank truck and commingled with the milk of other producers, there is no further opportunity to measure or sample or reject the milk of an individual producer except as the operator of the pool plant measures, samples and accepts or rejects the entire load of milk. When such operations are conducted by or under the supervision of a cooperative association, the association has control over the operation with respect to individual producers. Accordingly, the association should be allowed to assume the responsibility as handler for reporting, accounting and paying for the milk. The cooperative association should be required to give prior notification to the market administrator and the receiving handler when the association intends to be the responsible handler. When the cooperative association is the responsible handler, the milk is treated as a receipt of producer milk by the cooperative association at a pool plant in the same location as the pool plant at which the milk was physically received. The milk is then treated as a transfer by the cooperative association to the plant operator and is classified according to the interhandler transfer provision of the order.

Producer-handler. The term "producer-handler" should apply to any person who produces milk on his own farm(s) and operates a plant from which fluid milk products are distributed as route disposition in the marketing area but who receives no fluid milk products from sources other than his own farm(s).

These requirements for producer-handler status are identical to those contained in the former Central Mississippi order. The provision in the Mississippi Delta order differs only in that producer-handlers are permitted to receive Class I milk from pool plants without loss of producer-handler status. There was no producer-handler operation in the Delta area, however, at the time of the hearing.

There is one known producer-handler operating in the part of the proposed marketing area previously under the Central Mississippi order. No evidence was offered to indicate need for any different treatment of producer-handlers than previously applied under such order. Cooperative association representatives, however, who were proponents of the order expressed concern as to the market instability which could result if producer-handlers were enabled to depend on pool milk supplies for reserve milk. In view of prior experience in this market, it was feared such an arrangement would foster the development of producer-handler business at the expense of the producers supplying the rest of the fluid market.

While the milk used in a producer-handler operation is not subject to pricing regulation, the producer-handler also should not be entitled to use other sources of unregulated milk. Otherwise, producer handlers would enjoy an advantage which would be inequitable to other handlers in the market.

Other handlers incur obligations to the pool on unregulated milk used in Class I disposition, but producer handlers are exempt from pooling. Further, such use of unregulated milk by producer-handlers would be inequitable to producers. It would permit use in the fluid market of unregulated milk without such milk being subject to the order's allocation and payment provisions, which provide proper apportionment to producers of returns from Class I dispositions. Accordingly, the order should provide that a receipt of other source milk would preclude an operator from producer-handler status.

Receipts of milk at a pool plant from producer-handlers should be considered as a receipt of other source milk. This procedure is appropriate, otherwise producer handlers who do not share their own Class I sales would share in the Class I sales of other handlers in the market. At the same time the producer-handler would not be bearing a proper share of the reserve supplies associated with such Class I sales.

The advantage of exemption from pooling enjoyed by producer-handlers is such that some milk distributors attempt to acquire producer-handler status by superficial association with the milk production operation. Various business arrangements may be used to acquire an appearance of a true producer-handler operation. 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 the milk as well as the resources required for the distribution of the milk are each the personal enterprise and the personal 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.

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 for this fluid market in compliance with the sanitary requirements of the responsible health departments and other dairy farmers whose milk is primarily associated with other fluid markets or is qualified only for manufacturing purposes.

Milk for fluid consumption in the proposed area is required to be produced in compliance with specific health standards established by the State of Mississippi. These standards are patterned after the standard ordinance of the U.S. Public Health Service and are under supervision of county and state health authorities. In addition, it is intended that milk disposed of to government installations in the marketing area, which milk must meet health standards substantially the same as those in effect in other parts of the marketing area, shall be considered to have the required health approval.

The qualification of a dairy farmer as a "producer" should be established primarily on the basis of receipt of his milk at a pool plant. It is generally recognized, however, that the orderly and efficient handling of reserve milk requires occasional diversion of the milk of individual producers to manufacturing plants. The direct movement of the milk from the producer's farm to the manufacturing plant avoids the expense and handling which would be involved if the milk were first taken in at the pool plant of ordinary receipt and then transferred to the manufacturing plant. The same principle of efficiency of movement applies in the case of allocation of milk supply among pool plants according to needs. In such case, also, efficiency in movement of milk may be achieved by diversion between pool plants.

Producers, nevertheless, should retain producer status during diversion, and their milk should continue to be reported as producer milk receipts by the diverting handler. For this purpose, the place of receipt, for pricing should be deemed to be the location of the plant from which diverted.

Diversions of producers between pool plants is provided in this definition and should be permitted at any time. Likewise, unlimited diversions to nonpool plants should be permitted during the months of December through August. However, diversions to nonpool plants should be limited to 10 day's production of any producer during the months of September through November. In addition, as an alternative to the 10-day limitation during the months of September through November, diversion on a percentage basis should be permitted to provide further flexibility in handling reserve milk. A cooperative association should be permitted to divert to nonpool plants up to 15 percent of the milk of its producer members during any such month and a proprietary handler should be permitted to divert up to 15 percent of the total nonmember producer receipts at his pool plant during any such month.

Under the provisions of the current Mississippi Delta order, diversions of a producer's milk to a nonpool plant in any month of August through February is limited to not more than one-third of the number of days' production received at a pool plant during such month. Unlimited diversions to nonpool plants are permitted during the months of March through July and by the operator of a pool plant to the pool plant of another handler.

A Delta handler, who would be regulated by the Mississippi order as herein recommended, proposed that no limits be placed on diversions to nonpool plants. This handler receives only nonmember milk and diverts reserve milk not needed for his Class I requirements to nearby manufacturing plants. It was his position that even with the relaxed diversion provision proposed by proponents, diversions from his plant in all months except September (normally the month of shortest production) would exceed 15 percent of his total receipts. This proposal is not adopted for reasons set forth in the following findings.

Generally, the four proponent cooperative associations have assumed the responsibility of transporting milk from the farm to plants. The proprietary handlers who purchase milk from the cooperatives normally follow the practice of accepting only those quantities of milk needed for fluid disposition and associated operations. Milk not needed by local handlers can be most economically handled by the cooperatives, in most cases, by diversion directly from the farm to manufacturing outlets. During the higher production months of December through August unlimited diversion is therefore necessary for the orderly handling of the reserve supply of milk for this market.

It is necessary, however, to provide reasonable performance standards to insure that milk has a genuine association with this market and is not being pooled solely for the purpose of insuring a supply of milk for manufacturing uses. The pooling standard would preclude diversion in any of the months of December through August of the milk of any producer who had not held producer status during the entire two immediately preceding months. This requirement will deter the addition of producers during the months of highest production solely for the purpose of securing a milk supply for Class II use.

It is intended that the order should assure an adequate, but not excessive supply of milk for the fluid market. The order provisions should not encourage an excess volume of milk to associate with the pool. This result could come about if unlimited diversions were permitted in all months as proposed by the Delta handler. During the short production months of September through November, it is expected that handlers' supplies would be held in close relationship to their fluid needs. However, to assure orderly handling of weekend supplies in excess of fluid milk requirements, limited diversion, not to exceed 10 days' production of a producer or on a percentage basis, as previously discussed, should be permitted.

In the event any dairy farmer's milk is diverted in excess of the limits prescribed, such dairy farmer should qualify as a producer only with respect to that portion of his milk which is physically received (including milk so received for which the cooperative association is the handler) at pool plants during the month. Milk diverted in conformity with the diversion privileges is treated under the order as a receipt by the diverting handler at a pool plant at the location of the plant from which diverted.

Producer milk. Producer milk as defined is intended to include all skim milk and butterfat contained in milk received at a pool plant directly from producers, or by a cooperative association as a handler on bulk tank milk. Producer milk would also include diverted milk of producers within the limitations prescribed in the producer definition.

Other source milk. Other source milk should be defined as all skim milk and butterfat contained in, or represented by, fluid milk products utilized by the handler in his operation, except producer milk, fluid milk products received from pool plants, milk received from a cooperative association in its capacity as a handler for bulk tank milk and inventory at the beginning of the month. It would include all milk products from plants other than pool plants. It would include also all manufactured dairy products from any source received during the same or prior months, including those from the plant's own manufacturing operation, which are reprocessed or converted into another product during the month.

Fluid milk product. A definition of "fluid milk products" is provided in the order to implement the drafting of the classification provisions of the order. The term is intended to include those products which are required to be derived from milk and milk products from approved sources of supply.

Under the proposed definition herein provided, a fluid milk product includes milk, skim milk (including concentrated other than bulk condensed, and reconstituted skim milk) buttermilk, flavored milk, flavored milk drinks, eggnog, yogurt, cream (sweet or sour) and any mixture in fluid form of cream and skim milk or milk (except aerated cream, frozen storage cream, ice cream, ice cream mixes, frozen ice milk, ice milk mixes, frozen dessert and mixes, and sterilized fluid milk products contained in hermetically sealed cans). In the case of fortified fluid milk products, the definition would include that portion of the product equal to the weight of an unfortified product of the same nature and butterfat content.

(b) *Classification and allocation of milk.* A classified use plan should be established to insure that all milk and milk products handled by handlers fully or partially regulated under the order are fully accounted for according to the various uses in such handlers' plants. Milk is disposed of in the market in a wide variety of forms, representing different proportions of butterfat and skim milk components of milk. These proportions may be greatly changed from the proportions of butterfat and skim milk in the milk as first received. Accounting for milk and milk products on a skim milk and butterfat basis, and pricing such skim milk and butterfat in accordance with the form in which (or the purpose for which) used is the most appropriate means of securing complete accounting on all milk involved in market transactions.

This accounting system is almost universally provided in Federal orders and will insure uniformity in application of the classification and pricing provisions of the order to all handlers supplying and/or distributing milk in the market.

Classes of milk. The fluid milk products which are classified in Class I are required by the appropriate health authorities in the marketing area to be made from milk or milk products procured from approved sources. The extra cost incurred by producers in producing quality milk and in getting it delivered to the market in the condition and in the quantities needed by the market necessitates a price for milk used in Class I products somewhat above the price of milk used in manufactured products. The higher price must be at a level which will provide sufficient incentive to producers through the blended price returns to encourage the production of those quantities of milk needed for the Class I products plus the necessary reserve to cover daily fluctuations in market demand.

Milk in excess of the market's Class I needs at any time must be disposed of for use in manufactured products. These products are less perishable than fluid milk products and they compete on a national market with similar products made from unapproved milk. Milk so used must be classified as Class II milk and priced according to its value in such outlets.

The specific products included in Class I have already been specified in the discussion of the fluid milk product definition. Such products may be unmodified or may be modified by the addition of nonfat dry milk, as is commonly practiced in the case of skim milk drinks and buttermilk, for example. On the other hand the product may be concentrated by evaporation as in the case of concentrated whole milk for fluid consumption.

Products such as evaporated or condensed milk which are either packaged in hermetically sealed cans or which are used in the manufacture of other milk products, while made by a process similar to that for concentrating milk for fluid consumption, are classified as Class II products for the same reasons as other products in Class II. Milk disposed of for Class II uses is classified on the basis of its initial disposition. When any Class II product is reprocessed or reused in another product it should be treated as a receipt of other source milk. This procedure minimizes the assessment of reclassification charges since priority of assignment under the accounting procedure is given to current receipts of fluid milk. Concentrated milk which may be restored to its original form in the home through the addition of water, as well as reconstituted fluid milk products, compete for the same Class I sales as whole milk. Accounting for such products on the basis of original volume, including all the water originally associated with the solids, is necessary to insure equity among handlers and to return to producers the full use value of their milk.

Fortified fluid milk products present a special classification and accounting problem. Fortification of fluid milk products customarily is accomplished by the addition of nonfat dry milk to fluid milk or skim milk to yield a finished product of higher nonfat milk solids content than that of an equivalent amount of whole milk. Reconstitution, on the other hand, involves the process of "floating" concentrated milk solids in water to yield a weight of product approximately equal to the weight of milk from which the concentrated product was first made by the removal of water.

To maintain proper accounting for fortified fluid milk products the nonfat milk solids added to such items should be converted to their skim milk equivalent. This is necessary to insure uniformity of application of the accounting system. It is not necessary, however, to price as Class I all the water originally associated with the added solids. The addition of the solids used in fortification cannot be considered as displacing producer milk in Class I except to the extent that the volume of product is increased. The addition of solids to make a more desirable product may in fact increase the sales of producer milk, and in any event would not displace producer milk in Class I beyond the minor increase in volume which results.

In the case of fortified fluid milk products the skim milk to be classified as Class I milk should be only that contained in an equal volume of unmodified product of the same nature and butterfat content, excluding the dry weight of any nonmilk additive such as flavoring, etc. The skim milk equivalent of the nonfat milk solids not classified as Class I milk should be classified as Class II milk.

Handlers maintain inventories of milk and milk products which must be considered in accounting for receipts and utilization. The accounting procedure will be facilitated by providing that end-of-month inventories of all Class I products be classified as Class II milk, regardless of whether such products are in bulk or packaged form. Inventories of such products will be subtracted, under the proposed allocation procedure, from any available Class II disposition in the following month prior to the allocation of current fluid milk receipts. The higher use value of any fluid milk product in inventory but, which is allocated to Class I milk in the following month, should be reflected in returns to producers. This is accomplished by a reclassification charge on such milk at the difference between the Class II price of the preceding month and the Class I price of the current month.

Inasmuch as a handler may receive milk from other order plants and unregulated supply plants as well as producer milk or milk from other pool plants, any of these sources may contribute to his inventory situation at the end of the month. The assignment provisions herein adopted insure that milk from nonpool sources assigned to the surplus class in the prior month (and thus available for reclassification under the inventory allocation procedure this month) will either have been so assigned pro rata with producer milk or is milk which by its very nature is surplus. Furthermore, any other order milk so assigned will have been priced at the comparable surplus class in the order of origin. In either case therefore the reclassification charge is appropriate.

Loss of skim milk and butterfat in plant operations is commonly referred to as shrinkage. Because plant loss represents a disappearance of milk for which the handler must account but for which no return is realized by the handler, shrinkage should be Class II to the extent that the amount is reasonable and is not the result of faulty or incomplete records. Any actual shrinkage in excess of such rates should be accounted for as Class I milk. The provisions should contemplate receipts by a handler from both producer and other plant sources, and receipts from a cooperative association as a bulk tank handler.

The maximum shrinkage allowance of skim milk and butterfat in Class II should be limited to:

(a) Two percent of receipts of milk at a pool plant from producers; plus

(b) One and one-half percent of milk receipts from a cooperative association in farm bulk tanks except that, if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of butterfat tests of farm drawn samples and farm weights determined by farm bulk tank calibrations, the applicable percentage should be two percent; plus

(c) One and one-half percent of milk receipts in bulk from other pool plants, other order plants and unregulated supply plants, exclusive of the quantity of such nonpool receipts for which Class II utilization is specified; less

(d) One and one-half percent of the disposition in bulk by transfer or diversion from pool plants to other pool plants; less

(e) One and one-half percent of the milk transferred in bulk from pool plants to nonpool plants; and plus

(f) One-half of 1 percent of receipts of producer milk in the case of a cooperative association with respect to milk in farm bulk tanks, unless the operator of the pool plant purchases such milk on the basis of farm weights and tests.

Plants which are operated in a reasonably efficient manner and for which accurate records of receipts and utilization are maintained should not experience plant loss in excess of the maximum 2.0 percent provided. Any shrinkage in excess of the maximum should be classified as Class I.

It is appropriate to limit the volume of unregulated milk and other order milk that may be classified in Class II as shrinkage, since these types of receipts are allocated pro rata to class uses along with quantities received from pool plants and producers. Under the allocation system provided such other source milk will share with producer milk in any Class I quantity computed because of shrinkage in excess of established limits. No specific shrinkage limit is necessary on unregulated or other order milk that does not participate in the pro rata assignment to classes and is allocated first to Class II, since the allocation procedure insures assignment of such milk to Class II in an amount at least equal to the shrinkage that may be associated therewith.

To insure an equitable assignment of total shrinkage to the two categories of receipts ((1) receipts for which percentage limits are set as to the quantity of shrinkage which may be Class II milk, and (2) receipts for which no shrinkage limit is set), the total shrinkage should be prorated to these two categories.

The various rates of shrinkage allowance herein specified are one-half of 1 percent for a receiving operation and 1½ percent for processing. These rates recognize that normally the greater amount of shrinkage is experienced in the processing than in the receiving function, and such a division of shrinkage allowance is common under Federal orders. Thus, the allowances as described would provide a 0.5 percent allowance to a cooperative association with respect to bulk tank milk for which it is the handler making delivery of such milk to pool plants. This allowance would apply in the absence of notification by the pool plant operator to the market administrator that he is purchasing such bulk tank milk from the cooperative association on the basis of farm weights and tests. If the pool plant operator elects to pay on farms weights and tests, the entire 2 percent shrinkage allowance would be available to him with respect to such milk.

In the case of transfers or diversions of whole milk from a pool plant to another plant (pool or nonpool), it would be recognized that the transferor handler normally incurs only the shrinkage associated with the receiving function. In the case of a transfer of cream, however, the shrinkage allowance recognizes the transferor handler has performed both the receiving and processing functions.

Skim milk and butterfat contained in fluid milk products disposed of for livestock feed also should be classified as Class II milk. Handlers sometimes find that livestock feed is the only economical outlet for certain items of route returns or small quantities of milk in the plant not needed for current Class I processing.

This circumstance may apply particularly to some of the pool plants farthest from manufacturing plants. Classification as Class II should be contingent, however, upon specific records showing the amount of skim milk and butterfat disposed of in this manner. The same considerations should apply to fluid milk products for which the handler finds no economic disposition and dumps. In this case, Class II classification must be contingent upon meeting the requirement of prior notice to the market administrator. Since dumping involves no transactions with others, verification may require physical observation of the dumping and provision must be made whereby the market administrator may have that opportunity. Accordingly, it is provided that the market administrator must be notified during the usual hours of business and not less than 4 hours prior to dumping fluid milk products that the handler intends to dump.

Transfers. Fluid milk products may be disposed of to other plants for manufacturing uses. Classification of any product transferred to another plant should, under certain circumstances, be determined according to its utilization in the plant to which transferred.

Fluid milk products transferred by a handler to a pool plant should be classified as Class I milk unless utilization as Class II milk is claimed for both plants on the reports submitted for the month to the market administrator. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of receipts of unregulated milk, other order milk, inventory, and appropriate assignment of shrinkage. Moreover, if other source milk of the type to which surplus value inherently applies (such as nonfat dry milk solids) has been received at the transferor plant during the month, the skim milk or butterfat in fluid milk products involved in such transfer should be classified so as to allocate the least possible Class I utilization to such other source milk. In the case of a transferor handler who received other source milk from an unregulated supply plant or other order plant, the transferred quantity, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

Fluid milk products diverted to a nonpool plant (not an other order plant) 200 miles or less from the New State Capitol in Jackson or the County Courthouse in Gulfport, Miss., or transferred to a nonpool plant (not an other order plant) should be classified as Class I milk unless certain conditions are met. The operator of the nonpool plant, if requested, should make his books and records available to the market administrator for the purpose of verifying the recepits and utilization of milk in such nonpool plant. Provision for verification by the market administrator is reasonable and necessary to insure proper application of the classification procedures prescribed in the order.

The skim milk and butterfat so diverted or transferred should be assigned following assignment of utilization at such nonpool plant to receipts of packaged fluid milk products from pool plants and other order plants. This assignment is in accord with the classification of such packaged products to Class I at the plant of origin. Other utilization at the nonpool plant should be assigned on the basis that any route disposition in the marketing area should be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted to the nonpool plant from pool plants. Further, any route disposition in the marketing area of another order should be first assigned to receipts from plants fully regulated by such order, and next pro rata to receipts from pool plants and other order plants not regulated by such order. The remaining quantities of skim milk and butterfat transferred to the nonpool plant should be assigned to the skim milk and butterfat in any transfers of milk, skim milk, and cream in bulk from the nonpool plant to pool plants, classified as if it were a direct transfer from one pool plant to another pool plant with Class II utilization indicated. If this results in transfers from pool plants of two or more handlers being classified as Class I such classification should be shared pro rata between the handlers unless, at or before the time of reporting, the plant operators indicate agreement on a different sharing of such Class I classification.

If such assignment does not cover all transfers to the nonpool plant, assignment of additional quantities to Class II use in the nonpool plant would be limited to available Class II utilization in the plant and similar use of any shipments from the nonpool plant to other plants (pool or nonpool) excluding any duplication of such classification of milk received at the nonpool plant from other pool plants or other order plants.

The treatment of transfers provided is essentially that presently effective under the Delta order and previously used in the Central Mississippi and Mississippi Gulf Coast orders, and serves to coordinate classification of milk disposed of to nonpool plants with milk disposed of by other order plants to the same nonpool plants.

Fluid milk products diverted to nonpool plants (not another order plant) beyond 200 miles from the points indicated should be Class I milk. Within this range the manufacturing facilities are adequate to insure the orderly disposition of the market's reserve supply and milk moving a greater distance can be presumed to be for Class I uses. On shipments beyond such distance therefore it is not necessary and it is not administratively feasible for the order to provide classification on the basis of verified utilization in the nonpool plant to which shipment is made.

In the case of fluid milk products transferred from pool plants to fully regulated plants under another order, specific rules should apply to coordinate the classification under both orders. Specifically, fluid milk products transferred to an other order plant in excess of receipts from such plant in the same category (packaged, bulk designated for surplus disposal, or bulk milk not so designated) should be classified in the classes to which allocated as a fluid milk product under the other order. If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrator, transfers in bulk form should be classified as Class II to the extent that Class II utilization (or comparable utilization under such other order) is available for such assignment pursuant to the allocation provisions of the transferee order. If, however, information concerning the classification to which allocated under the order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification should be as Class I, subject to adjustment when such information is available. For these purposes, also if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes should be classified as Class II.

If the form in which a fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification should be in accordance with the form in which it leaves the transferor plant. This would be the case where the classification of a product differs in the shipping and receiving markets and accordingly identical classification will not be possible. These differences exist primarily because the health authorities in different areas have varying requirements with respect to the use of Grade A milk in some milk products. Hence, the order provisions must be designed to accommodate the differences in classification which might exist in this order compared to any order market from which such product is received.

A product, for instance sour cream, which is defined as a fluid milk product (Class I) in this market, may not be so defined in another market to which shipment is made. In such case, any transfer of sour cream between these markets would be classified in the class determined by the provisions of this order. The allocation to classes in the other order would be in accordance with the provisions of such other order.

Allocation. The order provides for determining the value of Grade A milk received from producers each month at a plant on the basis of its classification. It is necessary, therefore, that the order determine assignment of milk from all the various sources to each use classification.

The system of allocation of receipts to class utilizations must be similar to the system of allocation in the decision of the Assistant Secretary issued June 19, 1964 (29 F.R. 9109) for 26 Federal orders. The latter was designed to integrate into the regulatory plan of each of the orders milk which is not subject to classified pricing under any order, and to apply the regulatory plan of each of the Federal orders to milk regulated under another order which is disposed of from the other order plant on routes in the marketing area, or is received at a fully regulated plant. Inasmuch as that decision set forth the standards for dealing with unregulated milk under Federal orders generally, it is desirable that the system of allocation under this order be similar. Further, the treatment of other order milk should conform with the plan stated in that decision so as to coordinate the applicable regulations on all movements of milk between Federal order markets. Except for relatively minor variations to accommodate this individual market's situations, the general scheme of allocation must be based on the considerations of coordination among markets and uniform treatment of unregulated milk in the several markets.

Milk received at regulated plants from unregulated plants. When unregulated milk eligible for distribution in the market in fluid form is received by a regulated handler at his pool plant, provision must be made for its allocation to the total available classification of the pool plant, and for providing an appropriate rate of payment to the producer-settlement fund on any such milk allocated to Class I.

The order should provide that fluid milk products moved from an unregulated plant to a pool plant be classified as Class II milk if so reported by the operator of the regulated plant. Milk may be purchased by a pool plant operator from an unregulated plant either for use in his manufacturing operation or in connection with his Class I requirements. When the purchase is for manufacturing, the order should accommodate this by providing that such milk be allocated to the lowest price class utilization in the pool plant. This treatment of unregulated milk received at pool plants will further serve to accommodate unregulated plants which have surplus milk but do not have manufacturing facilities, since it will make available as an outlet the manufacturing facilities of pool plants without involving the unregulated plant in the regulation. When, however, manufacturing utilization in a regulated plant is insufficient for the assignment of all fluid milk products from unregulated plants to the agreed manufacturing use, the remainder, of course, must be allocated to Class I.

Other categories of milk receipts assigned first to Class II use (down allocated) should include receipts from producer-handlers; receipts without Grade A certification, and reconstituted milk. The reasons for such assignment are explained in subsequent findings on these specific types of receipts.

With respect to the general category of milk received from unregulated plants (not producer-handlers, however) the order should provide that (within limits) unregulated milk received at a pool plant, which is not specifically designated for manufacturing use, be assigned a classification which is pro rata to regulated milk received by the operator of such plant. This should be provided because classification of bulk milk cannot be determined on the basis of its inherent characteristics as either Class I (i.e., in bottles) or as surplus (i.e., as in manufactured products). Its classification depends upon its utilization by the handler who receives it. Unless the regulated handler accepts the milk for Class II use, a method as described herein must be provided for assigning the unregulated bulk milk to classes of use. By assigning it pro rata with regulated milk (within limits), its indeterminate character as Class I or II will be recognized up to the limit provided.

A limit must be placed on the amount of unregulated milk which may share full classification with regulated milk. The receipt of unregulated milk in a regulated handler's operation is always a source of danger to the regulatory plan. Handlers often obtain unregulated milk because it is a cheaper source of supply than regulated milk. Unless some limitation is placed on the volume of unregulated milk that may be prorated, a handler with a supply of regulated milk adequate for his Class I requirements could acquire cheaper unregulated milk to increase his manufacturing uses. This milk would share in his Class I utilization while an equal volume of regulated milk would be assigned to the expanded surplus use. This would impair the effectiveness of the regulation.

The limit placed on the amount of unregulated milk to be assigned pro rata with regulated milk is such that when, as a result of proration or assignment, as much as 20 percent of all regulated milk in the handler's plants is assigned to Class II, all additional unregulated milk will then be assigned to Class II. A reserve of milk for fluid requirements on a marketwide basis more or less than 20 percent of all handlers' receipts may be required, depending upon seasonal and other considerations. An individual handler associated with a regulated fluid market (whose main purpose is to furnish Class I milk to the market) will not need unregulated milk for the purpose of maintaining an adequate supply to service Class I sales in amounts which will increase his reserve above 20 percent of his total receipts in any given month. Whenever a handler has a milk supply such that 20 percent of his receipts are in Class II, he is fully supplied for furnishing a regulated Class I market. Even though a situation could conceivably arise where, because of the disruption of normal supplies, a handler receives milk from unregulated sources in excess of the quantities that may be prorated, the attainment of effective regulation nevertheless requires the imposition of this limit.

It is provided that in assigning unregulated bulk milk for purposes of classification, the overall utilization of the handler at all of his plants regulated under the order [2] (rather than the utilization at a single plant) should be used. This is necessary for the same reasons, set forth later in this decision, which apply to receipts of milk from plants regulated by other orders.

Payment at the difference between the Class I and uniform prices should be made by the receiving handler into the producer-settlement fund on the portion of unregulated milk which is assigned to Class I through proration. During the months of March through July, however, base and excess pricing applies. For the purpose of computing a rate of payment on unregulated milk during March through July, a weighted average price must be computed in a manner identical with the computation of the uniform price in other months. There can be no question that the Class I price basically should apply to both regulated and unregulated milk used in a fully regulated plant as Class I milk. To attribute any different valuation on the unregulated milk would automatically result in inequity as compared with regulated milk similarly utilized.

Although there is no room for doubt as to the need to attribute a Class I value for any milk so utilized (the minuend), the proper credit to be allowed to milk from unregulated plants is not clear, i.e., what subtrahend should be used in such a payment formula. It may be expected that in many situations a payment at any lesser rate than the difference between the Class I minimum price and the value of such milk as surplus would give unwarranted price advantage to unregulated milk over producer milk similarly utilized.

Milk at unregulated plants may be purchased from dairy farmers on a flat price basis without regard to use classification. Although most of the milk so purchased by the unregulated plant operator may be intended for local distribution outside the regulated market, excess milk supplies on a daily and seasonal basis will arise as they also do in regulated plants.

This frequently leaves excess milk at unregulated plants which is truly surplus to the normal fluid needs of those plants. This situation is accentuated at certain times of the year when there are characteristic seasonal increases in the production of milk without corresponding increases in the demand for milk. If it were not for the sale in the regulated market, such milk would have no higher value to the plant operator than its surplus value. In such circumstances, the operator of such an unregulated plant, including the fringe distributor, has great incentive to "dump" his surplus milk into the regulated market or its supply system at any price higher than a surplus price and thereby obtain a competitive advantage for such milk over regulated milk. Regulated handlers cannot similarly convert otherwise surplus Class II milk into Class I utilization without accounting to the producer-settlement fund at the full difference between these two utilizations, i.e., they account at Class I rather than Class II. There would then appear to be substantial justification for the same rate of charge against milk from unregulated plants obtained and used in similar circumstances.

Notwithstanding the fact that surplus milk is obviously available to handlers from time to time, there is no indication that they have exploited their opportunities to use such milk. It is concluded,

[2] Such total utilization would be subject to certain prior deductions for receipts assigned to the surplus classification as mentioned in prior findings.

therefore, in the light of the decision of the Supreme Court in the Lehigh Valley case, and because of the administrative difficulty in determining whether particular milk from an unregulated plant utilized as Class I in this market actually had only a surplus value or cost at source, that the charge should be limited to the difference between the Class I price and the market order uniform price (weighted average price for the months March through July), both adjusted for butterfat content and the location of the unregulated plant from which the milk was received. Although the use of the uniform price as the subtrahend will not assure complete removal of the minimum price advantage which may exist for some milk for the reasons just stated, it nevertheless will serve to minimize this advantage in such cases, and generally should be an equitable means of providing a reasonable measure of protection to the regulatory plan. If subsequent experience shows that such payment is not protecting the regulatory plan, then, on the basis of specific evidence, another rate of payment or another plan will need to be devised.

As a means of carrying out the equalization provided by market pooling, regulated handlers are required to pay this minimum uniform price to their own producers and, in addition, are required to pay to the producer-settlement fund the full difference between the Class I price and such uniform price on all regulated milk classified as Class I because of its use as fluid milk. Unregulated milk similarly used as Class I milk by a regulated handler likewise should carry a payment to the producer-settlement fund at least at the same rate as that required of regulated milk. If the handler buys regulated milk at a price in excess of the uniform price, he receives no credit for this excess payment in accounting to the producer-settlement fund. Neither should he receive credit for any amount paid for unregulated milk in excess of the uniform price. Both the regulated and unregulated milk, therefore, will be credited at only the uniform price in accounting the producer-settlement fund.

These payments are not unfair or burdensome to the dairy farmer supplying the unregulated plant, whose milk is used as Class I milk by a federally regulated handler. The allowance of a credit for milk from unregulated plants used as Class I by the regulated handler at the uniform price level will provide opportunity to the unregulated plant operator to pay his dairy farmers at least the uniform price on these Class I sales. The order cannot, of course, guarantee to the dairy farmer that his purchaser in fact will pay this full uniform price to him.

The order must contain provisions of this kind which serve to adequately relate to the total scheme of regulation that milk received by regulated handlers which is not subject to full regulation. Otherwise, the very existence of the market pool order may establish the condition which makes impractical the attainment of the regulatory objective of stabilizing the market in the manner prescribed by the statute. Consequently, the Secretary must protect, to the extent consistent with the Act, the regulatory plan in any marketing area against defeat or impairment because of the introduction into the marketing area of milk from unregulated sources which is not subject to full regulation.

There may be instances where a distributor is subject to State milk control and pays the State minimum price on all of his receipts of milk including some that is assigned as Class I in a federally regulated market. The method of assignment and rate of payment into the producer-settlement fund applicable to other unregulated milk must also be applied to this source of "unregulated" milk even though the State regulated distributor may have paid a price for the Class I milk disposed of in the Federal order market that was higher than the uniform price established by the Federal order. This is necessary for the same reasons as apply to any operator of a plant who, for whatever reasons, pays a price for milk higher than the Federal order uniform price.

The evidence does not show that packaged milk is received from unregulated plants. However, in case such a contingency should arise in the future, a rule for dealing with it must be provided. In the absence of evidence as to a specific method of dealing with such receipts, it should be provided that packaged milk received from an unregulated plant will be treated the same as bulk milk.

Producer-handler surplus, reconstituted milk, non-Grade A milk. Certain milk by its very nature must be treated as surplus when received at market pool plants regulated by a Federal order and, therefore, it must be assigned a surplus value. One such source is milk received at a regulated plant, in either bulk or packaged form, from a producer-handler (under any Federal order). Another source is milk produced by the reconstitution to fluid form of manufactured dairy products, such as fluid skim milk made by the addition of water to nonfat dry milk. Still another source is milk of manufacturing grade (non-Grade A milk) which is not eligible for disposition for fluid consumption in the market. As to milk from these sources, a payment into the producer-settlement fund at the difference between the Class I and surplus prices must be required of the receiving handler when such milk is allocated to Class I, following "down-allocation" to the extent it can be absorbed in lower priced uses.

In this order as in most other orders the producer-handler is exempt from the pooling and pricing provisions. This exemption is based on the principle that the producer-handler assumes the burden of disposing of his milk supplies in excess of his Class I milk needs. Being exempt from these provisions of the order makes it possible for the producer-handler to retain the full return from his Class I sales of milk on routes even though such sales are in competition with regulated handlers.

Producer-handlers are primarily engaged in the distribution of Class I milk. Normally they do not maintain facilities for processing and manufacturing any milk produced in excess of the Class I needs. Because of seasonality of milk production and for other reasons, producer-handlers will produce some milk in excess of their Class I needs. The best available outlets for this surplus milk usually are to fully regulated plants in the market. In view of a producer-handler's limited capacity for utilizing excess supplies of milk, it is often economically advantageous for him to dispose of such excesses at surplus prices to regulated handlers. Such milk, therefore, would be available to regulated handlers at surplus prices. Under these circumstances, it would not be appropriate to allow the regulated handler credit from the producer-settlement fund at more than a surplus price for any such purchases.

Inasmuch as a producer-handler's appropriate competitive relationship with other handlers and with other producers depends upon the producer-handler assuming the burden of his own surplus, an equitable relationship among the several groups would not be achieved if a producer-handler were allowed to dispose of his surplus and obtain the uniform price for such surplus. As long as the producer-handler has the advantage of enjoying the full benefit of his own Class I route sales without sharing them with other producers he should not also receive Class I benefit from a market pool, at the expense of producers, for any of his milk which he is unable to sell in such way. Surplus milk purchases from producer-handlers operating under another order has the same potential for creating disorderly marketing conditions as surplus from producer-handlers operating under the same order. Therefore, no distinction in treatment for such milk should be provided.

The order should provide, therefore, that milk received from producer-handlers at a pool plant should first be assigned to Class II milk at the pool plant. If any is then assigned to Class I, a payment into the producer-settlement fund at the Class I-surplus price difference should be applied. Such rate of payment on receipts by federally regulated handlers of milk from producer-handlers was ratified by Congress at the time provisions of the Agricultural Adjustment Act of 1933, as amended in 1935, authorizing the issuance of milk orders, were reenacted by the passage of the Agricultural Marketing Agreement Act of 1937. During the period between August 24, 1935, and June 3, 1937, the effective date of the latter Act, six Federal milk orders were issued under such Agricultural Adjustment Act. Two of such milk orders (Greater Kansas City, Mo., and Fall River, Mass.), placed in effect during this period, contained provisions requiring handlers who used bulk milk received from producer-handlers in other than the lowest priced classification to pay the difference between the class use price and the lowest class (surplus) price for such milk as part of the handler's total obligation for milk. Such payment was distributed, together with the classified value of producer milk of the handler, through the market pool.[3]

A surplus value likewise is properly assigned to reconstituted milk (for instance, the result of combining nonfat dry milk or condensed milk with water). The products used in such reconstitution process are made from milk which always carries a manufacturing, or surplus value. Producer milk used to produce such products is priced as surplus. Since the milk used to produce these products is originally priced as surplus milk, payment into the producer-settlement fund at the difference between the Class I and surplus price is necessary to insure competitive equity with producer milk when reconstituted milk is used in Class I. No recognition should be given to processing costs involved in the manufacture of the products derived from unregulated milk and used in reconstitution, since similar costs are incurred in processing producer milk into such products.

Nonfat dry milk and condensed milk also may be added to fluid milk products to increase the nonfat solids content thus making so-called "fortified" fluid milk products. The incentive for handlers to use nonfat milk solids to fortify fluid milk products arises from the specific demands of consumers. The increased emphasis on low-fat diets and the high nutritional value of nonfat solids in relation to their weight have contributed to the increased demand for added nonfat solids in fluid milk products.

Such products are distinguished from reconstituted products, however, in that the resulting volume of fluid product is not increased appreciably since no water is added. The essential economic difference in the use of milk solids for fortification of fluid milk products versus their use for reconstitution is recognized in the class use definitions. The class use definitions, which provide that the fluid equivalent of the added solids shall be Class II (excepting the minor quantity of increase in volume of the fortified product), and the allocation provisions which would assign the fluid equivalent of solids used to Class II milk, accomplish appropriate accounting and result in a proper obligation against the handler.

Milk of manufacturing grade is not eligible for fluid (Class I) uses under the requirements of the health authorities in the market. In dual-purpose plants, however, such milk could find its way into Class I in the pool plant. The appropriate value which attaches to such milk is the surplus price because such price accurately reflects its value as manufacturing milk only. The manufacturing value is the price which processors pay for this grade of milk. Receipts at a market pool plant of manufacturing grade milk, therefore, should be assigned first to use in Class II. But should any manufacturing grade milk be assigned to Class I, a payment into the producer-settlement fund at the difference between the Class I and surplus prices likewise would be necessary to remove the competitive advantage this milk would have in relation to producer milk. Health authorities require that the source of milk eligible for fluid consumption (Grade A milk) must be identified. Any receipts from unidentifiable sources must therefore be treated as milk of manufacturing grade.

Receipts from other order plants. The order should provide for the assignment to Class I (i.e., to be deducted from gross Class I milk in the receiving plant) of 98 percent of packaged fluid milk products received from a fully regulated plant under another order. The remaining 2 percent should be assigned to Class II. The 2 percent may be considered as a safeguard against possible "over-assignment" of milk to Class I in the originating market (i.e., the assignment to such market of a transferred quantity which is greater, from a practical standpoint, than normally can be disposed of as Class I in the receiving market). Since it is reasonable to expect some route returns will be associated with intermarket transfers just as there are in connection with milk locally processed in the receiving market, a small allowance of 2 percent for such returns, which must fall into surplus use, should be included to avoid such over-assignment in Class I.

Prior to amendments to orders effective August 1, 1964, a variety of classification methods had applied to intermarket transfers of bulk milk. Such a variety of methods could not achieve the objective of appropriately integrating into the respective regulatory schemes in a uniform and consistent way intermarket shipments of regulated milk. Following the pattern of such amendments, "surplus" classification (Class II milk) should apply whenever the parties involved agree that the shipment is for manufacturing use in the second market. A higher classification would result only when it is found, on verification, that some portion of the milk could not have been used for manufacturing uses. This portion would then be reclassified as Class I.

Interorder shipments of bulk milk which are not classified as Class II by agreement should be classified as Class I and Class II on the basis of the marketwide utilization of producer milk. Such classification should be limited, however, so that the quantity of milk assigned to Class II is not greater than the receiving handler has utilized as Class II.

The order should not provide for marketwide proration of milk received from another order plant when the receiving handler has a greater proportion of milk in Class II than the average in the receiving market. Marketwide proration of receipts of milk from other markets is designed to deal primarily with milk received by a handler who is supplementing his local supply for Class I use. Marketwide proration would tend to encourage unduly and uneconomically the importation of milk by a handler with a higher proportion of milk in Class II than the market average because it would assign a disproportionate share of local producers' milk to Class II.

The particular classification which is given to bulk transfers from other orders will be within the control of the receiving handler and there will be no monetary obligation placed on him for this milk by the receiving market order. Inasmuch as other Federal orders from which milk might be received have provisions corresponding to those herein adopted, the situation will not arise where milk transferred would be classified as Class I in the shipping market and Class II in this market since the same classification would apply in both markets.

Assigning the bulk receipts from other order plants to the handler's system utilization will prevent a handler with more than one plant from discriminating against either his own producers or those supplying the other Federal order market by importing milk not serving a bona fide need for Class I use. It should be provided, therefore, that assignments of interorder bulk milk should be made over all utilization of milk at all the handler's regulated plants in the receiving market. In this order allocation is on a plant-by-plant basis. Accordingly, provision is made herein that the allocation of bulk receipts from other orders at a plant shall be on a system basis, irrespective of individual-plant accounting for other purposes of the order.

Handlers who receive milk from other orders or from unregulated plants should be precluded from transferring such milk to regulated plants of other handlers at a utilization higher than would have resulted from a direct receipt at the second plant. Unless the order so provides it would be possible to use a plant with high Class I utilization as a conduit for receiving milk from plants subject to other orders and avoid the allocation provisions of the order which apply to milk received directly from other orders and from unregulated plants.

In any month in which bulk milk is received in the market (without agreement as to Class II classification on the part of the handlers involved in the transfer) it will be necessary that the administrator in the shipping market know the classification of such milk on or about the date when handler reports are due under that order. Since the reporting dates under orders are very similar, it is possible the market administrator may not have complete information to compute his exact marketwide utilization of producer milk by the time the classification of a transfer is needed by the administrator in the shipping market. It is provided, therefore, that, when necessary, the market administrator will estimate the marketwide utilization of producer milk for purposes of determin-

[3] 7 U.S.C. section 672, which contains the codified language of section 4 of the Agricultural Marketing Agreement Act of 1937, as amended, states in paragraph (a) "Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to or any provision of, or any act of the Secretary of Agriculture in connection with any such agreement, license or order which has been executed, issued, approved, or done under sections 601–608, 608a, 608b, 608c, 608d–612, 613, 614–619, 620, 623, 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized and confirmed."

ing the allocation of bulk milk received from other orders. It is provided, that such estimate will be made and publicly announced to the nearest whole percentage and, for this purpose will be final.

Federal orders generally provide that the administrator of any order receiving bulk milk from an other Federal order will promptly notify the administrator of the shipping market of the allocation of such milk so that a compatible classification on such milk may be applied under the shipping orders. Information as to the classification of such milk must be passed on by the respective administrators to the handlers involved so that handlers may know the basis of their obligation on such milk. This order should provide similarly for such interchange of information.

Situations may arise where plants subject to this and another Federal order ship milk back and forth during the same month (i.e., each plant ships milk to the other plant). If such shipments are of a similar nature (packaged milk, bulk milk designated for surplus disposal, or bulk milk not so designated) only transfers of milk between two plants which are not offset by an equal quantity of milk received from the second plant need be considered. Since the classification of this milk in the shipping market is based upon its allocation in the receiving market, only the net difference in transferred quantities (in terms of butterfat and skim milk separately as may be necessary) need be allocated in the receiving market. Otherwise, from a mechanical standpoint, neither market could allocate receipts of milk to classes until all milk had been classified, including the shipment to the other market.

(c) *Class prices.* The fundamental consideration in pricing milk in this market is that the minimum class prices established be at a level which will assure the maintenance of an adequate, but not excessive, supply of quality milk for the local fluid market, and at the same time assure the orderly disposition of the necessary market reserve supply.

Class I price. The Class I price each month should be established by use of a basic formula price plus a stated differential. The basic formula price should be the average price per hundredweight for manufacturing grade milk, f.o.b., plants in Minnesota and Wisconsin, as reported by the U.S. Department of Agriculture adjusted to a 3.5 percent butterfat test.

The Class I pricing formula as adopted herein was supported by the four proponent cooperative associations. The producer representatives supported also seasonal changes in the Class I price differentials. At the basing points, Pascagoula and Gulfport, under their proposal the Class I price differential of $2.35 would apply during the months of August through February and $2.15 during the months of March through July.

The price differentials as described are essentially the price levels which have been effective under the Mississippi Delta order and the former Central Mississippi order for the same areas. Since 1960, however, the Class I price under each of the Mississippi orders was a level year-round price without seasonal variation.

In terms of annual levels, the Class I price differentials in the general area previously covered by the Central Mississippi order should be $2.167 per hundredweight. The general area now covered by the Delta order would have an effective Class I differential of $2.007 per hundredweight. This would be accomplished by establishing basing points at Gulfport and Pascagoula, Miss., from which location price adjustments would apply in the areas described. At Gulfport and Pascagoula the average Class I differential of $2.267 would be subject to deductions of 10 cents for the Central Mississippi area and 26 cents for the Delta area. The more precise application of such location adjustments is described fully in the findings and location differentials.

Class prices, under statutory authority, must be fixed at a level which reflects economic conditions which affect market supply and demand for milk and its products in the marketing area. It is appropriate that the measure of price adequacy be applied to combined data for the Delta and former Central Mississippi marketing area. As previously indicated the milk supplies and milk disposition in both areas are closely related although differences in utilization between the two markets have existed, this condition has arisen in large part because of shifting of certain handlers, as previously described, between the two markets. Under a single order it may be anticipated that the existing milk supplies would be generally more available according to individual handler's needs.

Over a period of years, the situation in the two markets has been that supply has been adequate. During the 4-year period of 1960–63, Class I utilization of producer milk on an annual basis, has ranged from about 70 to 80 percent. While there has been an upward trend in Class I utilization since 1962, the supply has continued to be sufficient to meet all handlers' Class I requirements except in the case of special breed milk. The latter is a specialty product of two handlers. While there has been some further tightening of supplies in 1964, this experience is consistent with that of Federal orders generally reflecting the adverse weather conditions which prevailed in much of the country. In addition, as has been previously indicated, the supply area of the market overlaps with that of the New Orleans market which also has a fully adequate supply. From time to time milk supplies have been shifted between the New Orleans and Mississippi markets. While such shifting has been reflected particularly in producer members in the Gulf Coast order, such milk is similarly available in the marketing area herein proposed. Discussion of feed prices and other production conditions on the record did not disclose any need to establish a different price level than previously applied. Under these circumstances it must be concluded that the level of price which has prevailed under the Mississippi Federal orders has been appropriate and should be continued.

In recent years no seasonality of pricing has been provided in the Mississippi Federal order prices. Base plans have been included in each of the orders, however, for the purpose of encouraging a level production pattern.

The close relationship of this market with the New Orleans and Memphis markets is an important consideration, however, in the seasonality of prices. Seasonal pricing is provided under both the Memphis and New Orleans Federal orders and milk from each of these markets is regularly sold in the marketing area in competition with local producer's milk. In addition, as previously indicated there is substantial overlap of supply areas for these three markets. The Memphis Class I pricing formula provides a 41-cent seasonal variation in price while the New Orleans Class I price formula provides a 20-cent seasonal price swing.

Cooperative associations who are proponents of the order here under consideration supported a 20-cent seasonal swing in the Class I price to provide more appropriate price alignment as between markets. One handler proposed a continuation of the flat pricing which the Delta order now provides and which was previously in effect in the Mississippi Gulf Coast and Central Mississippi orders. This particular handler, however, has sales close to or overlapping the sales routes of Memphis handlers, and thus is affected competitively by changes in Memphis order pricing.

It is concluded that better price alignment with nearby markets will be achieved by adoption of seasonal Class I price differentials. Such differentials would be $2.35 in the months of August through February and $2.15 in other months at Gulfport or Pascagoula. This moderate seasonal range in Class I pricing is consistent with the competitive relationships of handlers in the proposed market with handlers regulated under the New Orleans and Memphis Federal orders.

The seasonal schedule of pricing herein provided should not take effect until August 1965. If it were made effective for the present Mississippi Delta area prior to August 1965, there would be an immediate reduction in the Class I price level of 11 cents per hundredweight. It is concluded that any effective date of the seasonal pricing provision should be deferred until August 1, 1965, and the straight differential of $2.26 should be maintained until that time. Under this schedule the effective differential of $2 for all months for handlers presently regulated under the Mississippi Delta order would be retained.

The adoption of a supply-demand adjustment mechanism in the Class I pricing provision should be deferred until a later period. Under normal circumstances, Class I pricing formulas which include provision for price adjustments in response to changing supply-sales relationship have been adopted in the pricing formulas of most Federal orders. Supply-demand adjustors generally provide timely price changes and are an essential tool for alerting producers to make production adjustments in response to changing relationships in supplies and sales. In this way such provisions implement maintenance of a price level consistent with the standards of the Act. At this hearing a supply-demand adjustment mechanism was proposed by producers.

In this case, however, an appropriate supply-demand adjustor cannot be derived for the proposed Mississippi market at this time. The proposed marketing area and order represent substantial alterations from preceding orders. Part of the relevant data upon which the supply-demand adjustment should be based is not available because of termination of the Central Mississippi and Mississippi Gulf Coast orders. Further, this decision recommends a substantial increase in Class II prices for the new order. Under the circumstances, it is concluded that no supply-demand adjustment mechanism should be adopted at this time. It is further concluded that the Class I price formula adopted herein should be effective for a temporary period of 18 months. Class I pricing under the order should be reviewed for periods after 18 months.

Class II milk price. The price for Class II milk should be either: (1) The average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, subject to a deduction of 10 cents in the months of March through July, or (2) the Class II milk price for the same month under the New Orleans Order No. 94, whichever is lesser.

The level of price for Class II milk should be high enough to reflect the full value of producer milk disposed of in manufacturing uses. On the other hand, the price should not exceed at any time a level at which market reserve milk can be moved to manufacturing outlets in an orderly fashion. Current Class II pricing under the Delta order and pricing under the former Central Mississippi order has not reflected the full value of producer milk in manufacturing uses.

The Class II milk price under the Mississippi Delta order currently is based on the average of the prices reported to have been paid farmers for manufacturing grade milk at four local manufacturing plants. Ten cents is added to such reported price during the months of February through August and 20 cents during all other months. Under the Central Mississippi order a similar Class II price formula was used based on four manufacturing plants' announced prices. Three of the plants were the same as those used in the Delta order. Under the Central Mississippi order 10 cents was added to such announced prices during the months of March through June and 20 cents in other months.

Manufacturing outlets available for handling the proposed market's reserve supply are limited and are located primarily in Northeastern Mississippi. Under usual circumstances the Mississippi Milk Producers Association and Cooperative Creamery Association must rely on these manufacturing plants to handle the milk not needed by handlers for fluid and related uses. Four of five plants in this area provide the announced pay prices which are presently the basis for computing the Mississippi Delta Class II prices, and another combination of four plants were formerly used in the now terminated Central Mississippi order. The burden of the costs incurred in assembling and transporting milk to these plants in Northeastern Mississippi particularly from the Southern part of the production area is borne almost exclusively by the cooperative associations handling such milk.

Because the market's reserve supply is an important part of the milk supply of the Mississippi manufacturing plants, it is readily apparent that such plants would have a substantial incentive in retaining a low Class II milk price under the proposed order. The limited number of manufacturing outlets is certainly conducive to the establishment of a nominal and relatively low Class II milk price if locally announced pay prices are the basis for computing such price. For this reason it is essential that a broader basis be provided under the order for computing the Class II milk price.

The handling of reserve milk in the Mississippi markets is related closely to the handling of reserve milk for the New Orleans market under Federal Order No. 94. About one-third of the milk supply for the New Orleans market originates in the common production area from which substantial supplies are moved also to the proposed Mississippi market. Quantities of reserve milk from this area move to the same Northeastern Mississippi manufacturing plants which serve as outlets for the Mississippi markets' reserve supplies. In addition the principal cooperative association representing producers in the New Orleans market operates manufacturing plants at Brookhaven, Miss., and Franklinton, La. These plants also serve as outlets for surplus milk in the proposed Mississippi market and the New Orleans market.

Under the New Orleans Federal order, the Class II price formula is higher than the formula used in the Delta order and that which was used in the Central Mississippi order. It is based on the announced paying prices of four Mississippi manufacturing plants, two of which are the same as those used under the Delta order. To these announced prices 28.5 cents per hundredweight is added during the months of February through August and 38.5 cents in other months. The Class II price under the New Orleans order may not exceed the Minnesota-Wisconsin price for manufacturing milk by more than 13.5 cents. The resulting price normally averages at least 18 cents higher than the Delta Class II price.

There is further evidence that the full value of reserve milk generally exceeds the level of the Delta order Class II price. Prices received by cooperative associations for milk disposed of to manufacturing plants in some months just prior to the hearing exceeded the local plants' announced paying prices by 30 to 40 cents per hundredweight. This illustrates, as is commonly understood, that the announced pay prices of local manufacturing plants do not reflect the actual returns received by dairy farmers for graded milk. Such plants ordinarily pay cooler and quantity premiums over their announced prices. In addition, it is usual practice to pay additional premiums for Grade A bulk milk.

Producer cooperative associations supporting a higher Class II price proposed using the Minnesota-Wisconsin price series, but with a deduction of 10 cents in the months of March through July. Proponents recognized also the necessity that the price should not exceed the New Orleans order Class II price.

The price for manufacturing grade milk in the two-State area of Wisconsin and Minnesota is issued by the State-Federal Crop Reporting Service on about the fifth day of each month for milk received at manufacturing plants in these States in the previous month. In each State, plant operators regularly report the total pounds of manufacturing grade milk received from farmers, the butterfat content, and total money paid to farmers for the milk. Average State prices based on these reports are available near the end of the following month. For the two-State area a special reporting system has been arranged which provides a reliable estimated price by the fifth day after the end of the month. The two-State area is one in which there is a heavy concentration of manufacturing grade milk and where many plants are competing for such supply. In Minnesota about 80 percent of the milk sold off farms is manufacturing grade and in Wisconsin, about 65 percent. About 50 percent of the manufacturing grade milk sold off farms in the United States is produced in these two States. Hence, the price series reflects a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. It is therefore an appropriate basis of pricing reserve milk in the Mississippi market.

Because manufactured dairy products compete on a national market, milk for manufacturing use delivered to plants in Mississippi should have substantially the same value as milk delivered to plants in Wisconsin and Minnesota. It must be recognized, however, that manufacturing outlets are more limited in Mississippi and during the months of greater production relative to Class I sales, local manufacturing plants, with a wider choice of supplies than in other times of the year, have paid relatively lower prices. Further, because of the location of the manufacturing plants, some recognition must be given to the burden of assembling and transporting the seasonal excess which is largely borne by one of the cooperative associations. These considerations should be reflected in a seasonal adjustment of the Class II price in order to assure the orderly disposition of the market's reserve supply during these months by providing for a downward adjustment of the Minnesota-Wisconsin price. It is concluded, therefore, that a 10-cent adjustment of such price during the months of March through July should apply.

In addition, it is necessary to provide assurance that the Mississippi Class II price shall not in any month exceed the

Class II price under the New Orleans order. This may be accomplished by providing that the effective Class II price shall be the lesser of (1) the Minnesota-Wisconsin price, less 10 cents March through July, or (2) the New Orleans Class II price. Because the two markets do compete for Class II outlets, by virtue of the fact that the same manufacturing plants are used for surplus disposal, a higher Mississippi order price could place local milk at a competitive disadvantage with New Orleans milk. Such a situation could seriously impede the orderly disposition of milk from the local market.

Based on price[4] relationships in recent periods (1963 and 11 months of 1964) the Class II price level herein recommended would represent an 18 cents per hundredweight increase over the present Mississippi Delta Class II price. This will tend to return to producers for such milk a price more commensurate with its manufacturing value in this area. In addition it should tend to deter handlers from procuring supplies solely for the purpose of converting such milk into Class II products and at the same time implement the movement of milk between handlers for Class I use.

The additional producer proposal that the Class II price in the Northern part of the marketing area be at a higher level than in the rest of the area, is denied. Attaching an additional location value to Class II milk in one area of the regulated market would seriously disadvantage some handlers who currently utilize their reserve milk in Class II products at their plants. Such handlers paying a higher price for Class II milk would be competing in a common sales area with other handlers subject to the lower Class II prices.

Butterfat differentials. The recommended classification system provides for a full accounting of all skim milk and butterfat utilized in all products. While milk is priced to handlers at a basic test of 3.5 percent, it is intended that each handler's cost for milk shall reflect the proportions of skim milk and butterfat in each class. This is accomplished by adjusting the class prices to each handler by appropriate butterfat differentials.

The value resulting from multiplying the Chicago butter price by 0.12 for Class I milk and by 0.11 for Class II milk will provide an appropriate means for adjusting the prices in the market for each one-tenth percent variation in the butterfat content of milk used in various products. The use of the Chicago butter price as a basis for establishing butterfat differentials will provide assurance for both producers and handlers that such differentials reflect changes in the butterfat values in the national market. These are the same handler and producer butterfat differentials as are provided under the present Mississippi Delta order and were contained in the former Central Mississippi order. The recommended differentials were suggested by proponents of regulation.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the average value of their butterfat in the two classes provided in this order. The producer butterfat differential does not affect a handler's obligation, and its sole purpose is to prorate returns among producers to the extent their milk differs from the basic 3.5 percent butterfat test.

Handler and producer location differentials. The interplant and intermarket Class I price relationships which existed under the Mississippi Delta and the now terminated Central Mississippi and Mississippi Gulf Coast orders should be preserved under the new Mississippi order.

Prior to termination of Order No. 103, the Mississippi Delta Class I price was established at a level 16 cents under the former Central Mississippi Class I price. The price presently is established on an equivalent basis. Location differentials are applicable at plants located 30 miles or more north of U.S. Highway No. 82 or outside the State of Mississippi and 30 miles or more from either Greenville or Columbus. Under the former Mississippi Gulf Coast order the basic Class I price was established at a level 10 cents over the former Central Mississippi order Class I price and was applicable to plants located within 60 miles of either Gulfport or Pascagoula. Location differentials were applicable to plants more than 60 miles from either of these points. Under the former Central Mississippi order the Class I price was applicable to plants located 50 miles or less from either Hattiesburg, Jackson, Meadville, or Meridian, and location differentials were applicable to more distant plants.

The handler and producer location differentials which previously applied are herein adopted with minor exception.

A Class I location differential should apply to all plants located in the former Central Mississippi marketing area and Beat 2 of Lamar County (hereinbefore recommended for inclusion in the marketing area). This may be accomplished by the designation of the counties, later referred to as the "Southern Area", in which a minus 10-cent location differential would be applicable. For plants in Mississippi but north of the counties in this designated Southern area, but less than 30 miles north of U.S. Highway No. 82 (the points at which location differentials become applicable under the Mississippi Delta order) a minus location differential of 26 cents should be provided. For all other plants located more than 60 miles but not in excess of 160 miles from the Court House in Gulfport or Pascagoula, Miss., whichever is nearer, a minus 10-cent differential should apply with provision for a deduction of 1.5 cents for each 10 miles distance or fraction thereof in excess of 160 miles.

The effect of the application of the above location differentials would be to preserve the same price relationships as previously existed for all plants presently regulated under the Mississippi Delta order and those which were regulated under the former Mississippi Gulf Coast and Central Mississippi orders. Two New Orleans order regulated plants, one at Franklinton, La., and the other at Kentwood, La., respectively, would have minus location adjustments of 10 cents if they became regulated under the proposed Mississippi order. However, since these two plants have historically been regulated under the New Orleans order, it is unlikely that they will be affected.

This system of location differentials would preserve established competitive relationships which have become accepted in the area. No objection was voiced at the hearing to such a schedule of location differentials. The gradation of effective prices from north to south of the supply area is in accord with the general alignment of prices in markets according to their distance from surplus milk producing regions.

The order provides that the application of location differentials should not be in a manner which would encourage unnecessary movement of milk. While it is recognized that the location differential system should accommodate the movement of milk for Class I utilization, the market pool should not bear the burden of moving milk in excess of Class I needs of pool plants. For this reason, the application of the Class I location differentials to milk moved between pool plants is confined to that which might be used in Class I at the transferee plant after direct receipts of producer milk, receipts from a cooperative association in its capacity as a handler on farm bulk tank milk, and receipts from other order plants and unregulated supply plants assigned to Class I.

The uniform base and excess prices to producers should be subject to the producer butterfat differential adjustments reflecting the value of butterfat test of milk from individual producers.

The uniform and base prices to producers should be adjusted for location of the plant of receipt. As pointed out in the discussion of class prices, milk delivered directly to a plant located within the marketing area is worth more, by at least the cost of transportation, than is other milk delivered to a plant located at a more distant point from the market. The appropriate rate of adjustment is described in the prior findings.

(d) *Obligation of unregulated plants with route distribution in the marketing area.* Milk may enter the regulated marketing area by direct route disposition from a distributing plant which does not meet the pool plant standards. The operator of a plant that is not fully regulated (in contrast to one that is) is not required to account for all of his disposition of milk at the established class prices, to return minimum uniform prices to his dairy farmers, or to have his records audited, etc. Such handlers thus normally would have a competitive advantage over the operator of fully regulated plants in the disposition of

[4] Official notice is taken of the market administrator's class price announcement for the Mississippi Delta market for the months of September through December 1964.

higher valued Class I milk in regulated marketing areas. Unless some method is provided for removing such a competitive advantage when unregulated milk is used for Class I sales in a regulated marketing area, inequities would exist among handlers in the sale of milk in the regulated market. These inequities would have such disruptive effects as to negate completely the purposes sought to be achieved by the milk orders pursuant to the basic statute.

While the Supreme Court ruled that a compensatory payment on unregulated milk as applied in the circumstances involving the New York-New Jersey order was inconsistent with the terms of the Act, the Court recognized, however, that because of the manner in which Federal orders function, "it is quite obvious that under certain circumstances some regulation of such milk may be necessary".

One way to minimize the quantities of unregulated milk entering marketing areas would be to reduce the performance standards for regulation of plants. But this would vitiate the effectiveness of the order in inducing adequate supplies of milk at order prices, or would unnecessarily involve in total regulation plants from which only small quantities of milk are distributed in the regulated marketing areas. Either of these consequences would render more difficult the attainment of the ends sought by the statute.

There is no way to treat unregulated milk equally with regulated milk other than to regulate it fully at the plant of first receipt from producers. This is the stage of the marketing system at which minimum order prices apply. The average price paid for all milk received at an unregulated plant has significance when compared to the minimum class prices of an order only as the utilization of all such milk is known. Short of full regulation any treatment of unregulated milk can at best only approach equality of treatment with regulated milk.

The "Wichita" plan which has been generally incorporated into Federal orders pursuant to the decision of the Assistant Secretary issued June 19, 1964 (29 F.R. 9109) should be adopted in this market. This would provide that the unregulated distributor who disposes of fluid milk products on routes in the regulated marketing area be accorded the following choices as a means of integrating his plant operations into the market's regulatory scheme:

(a) He should be allowed to show that payment for his total dairy farm supply has been at least as much as if his plant were fully regulated. This amount may be paid entirely to his dairy farmers or may be paid in part to his dairy farmers and in part into the producer-settlement funds of regulated markets;

(b) He may show that he has purchased Class I milk priced under some Federal order in an amount at least equivalent to his total Class I sales within the regulated area;

(c) He may make a payment into the producer-settlement fund on the quantity of Class I sales made in the regulated market at a rate equal to the difference between the Class I price and the uniform price for such regulated market; or

(d) Any combinations of (b) and (c).

Distributing plants with route distribution in a regulated market may not meet the performance standards for regulation of such a plant fixed by the particular order, either because of insufficient route sales in the regulated marketing area, or because too large a proportion of the milk receipts are utilized for Class II purposes. However, it is usually for the former reason that such plants fail to qualify because, generally, distributing-type plants use a high proportion of their receipts in Class I.

Ideally, marketing area boundaries are drawn to encompass that territory where the same handlers compete with each other for route (Class I) sales and to minimize overlapping sales area with unregulated handlers. Improvements in refrigeration, transportation and packaging, however, have encouraged expansion of sales areas to such an extent that it is difficult in any region to delineate an area which wholly accomplishes these objectives. Even if such a delineation were initially possible it inevitably would be only a temporary situation.

Milk distributors are interested in selling as much milk as they profitably can. One way of expanding their business is to expand geographically. This presents no particular problem for the order program with respect to the fully regulated handler since he is required to pay for his producer milk receipts on a classified use basis at the specified minimum order prices regardless of where his milk is sold. For each additional unit of Class I sales he makes he must pay the higher Class I price, whether such sales are made in or outside the marketing area. He cannot use milk bought at the lower surplus class price to expand his sales in either the regulated market or in other markets. He must report all receipts and utilization of milk and the payments made to producers, and maintain records which will substantiate such reports on audit. The butterfat tests upon which he pays producers likewise are subject to verification. He must pay his pro rata share of cost of administration of the order.

The operator of the unregulated distributing plant is in a substantially different situation. He is not required, as are regulated handlers, to purchase his milk on a classified use basis nor is he required to pay his dairy farmers any particular minimum price. Normally, he pays a "flat" price without regard to utilization of the milk. The flat price which such a dealer pays is usually at a level which, in relation to competitive conditions in his area of procurement will obtain sufficient milk for his needs. The operator of the unregulated distributing plant who competes with Federal order handlers for his supply is, in effect, in competition with the Federal order uniform price and usually may procure his supply for an equivalent price. The operator of the unregulated distributing plant thus is in a position to obtain his Class I milk for sale in a regulated market at a lower price than the handler who is fully regulated by the Federal order.

Order provisions are needed to minimize the price advantage an operator of the unregulated distributing plant has on milk sales in a regulated marketing area. The options previously described to be accorded the operator of an unregulated distributing plant, taken in combination are designed to achieve this end. It is concluded that such provisions should be adopted.

The second option—to purchase milk for his marketing area needs from a source fully regulated under a Federal order—also afford the operator of an unregulated distributing plant an opportunity to sell in a regulated area on a basis of competitive equity with respect to such sales.

The equivalent of the milk which he distributes in the marketing area would be fully priced Class I milk. Presumably, he would purchase it on the same basis as any other handler who purchases milk for Class I sales within the regulated market. Again, since the milk would be fully regulated under some Federal order, it would afford adequate protection to the regulatory plan.

Under certain conditions option (c) also would afford to the operator of an unregulated distributing plant competitive equity with respect to his sales within the regulated marketing area, and would protect the integrity of the regulatory scheme. The rate of payment is the difference between the Class I price and the applicable uniform or weighted average price of the market for the month when the sale is made. This rate is a constant for all locations at a given butterfat test of milk. In essence, the option fixes a value of the sale at the Class I price and assumes payment to dairy farmers at the uniform price of the market. It also assumes that all milk purchased by such distributor is for Class I use, i.e., that he has no surplus, or reserve supply.

If the operator of an unregulated distributing plant actually pays as much as the order uniform price to his dairy farmers and if the milk distributed in the regulated marketing area is not in fact surplus to his normal operations, the payment of a Class I price minus the market uniform price on his sales in the marketing area usually will tend to protect the regulatory scheme. In the case of regular every day distribution of about the same quantities of milk in a regulated area by the operator of an unregulated distributing plant, the supply of milk for such sales normally would be acquired on a regular basis and would not be milk surplus to other fluid operations. In view of the other options afforded the operator of the unregulated distributing plant, he will select this option when it is more advantageous to him than the other options. This rate of payment is discussed more fully in connection with receipts of unregulated bulk milk at fully regulated plants.

When the cost (that is to say the opportunity cost) of Class I milk disposed of in the marketing area by the operator of an unregulated distributing plant equals or exceeds the applicable uniform price established under the order, the payment proposed under option (c) will result in substantial equity between regulated handlers and the operators of unregulated distributing plants. If the cost of such milk is less than the order uniform price (either because of a less than uniform price payment to dairy farmers or because the milk is actually surplus to the regular operation of the plant), an advantage will be accorded such unregulated distributors relative to fully regulated handlers.

If the operator of the unregulated distributing plant elects to show that he has complied with option (a) above, it will be clearly evident that he has paid at least as much for his Class I sales as a fully regulated handler, for in fact he has paid for all his milk as if he were fully regulated. Such an option accords him competitive parity with respect to his minimum class prices with regulated handlers. The regulated handler is required to pay for all his milk sold as Class I, whether inside or outside the marketing area at the Class I price established by the order. The operator of the unregulated distributing plant will show that he has also paid at least the equivalent of the order Class I and Class II prices for milk utilized in these respective classes. This option provides a meaningful determination of actual pay prices of milk by such an operator for comparison with order values.

The above option has been provided in many Federal orders previously. At least one operator of an unregulated plant with route distribution in regulated markets in Mississippi (former Mississippi Gulf Coast order) has found that using this option is advantageous. This option will particularly accommodate any handler who, because of State regulation of milk prices, pays his dairy farmers at least the minimum prices required by the order regulating the handling of milk in the Federal order marketing area where they distribute milk. When he pays for his milk supply as much as if he were fully regulated, this option gives him an opportunity to distribute milk in regulated areas without incurring any additional financial obligations on such milk as the result of the order. At the same time, the fact that he has paid full class prices for his milk will assure that the integrity of the regulatory plan has been protected.

Special provision should be made for an unregulated distributing plant which receives part (or all) of its milk supply from another plant which serves as a supply plant for the unregulated distributing plant. If performance of the supply plant in shipping to the unregulated distributing plant is equivalent to the performance of a regulated supply plant, the operator, of the unregulated distributing plant shall be permitted, at his election, to show that payments to dairy farmers at the supply plant are in accordance with order accounting and prices. If the necessary information and authority for audit are provided by the unregulated distributing plant, the operations of the supply plant may be included with those of the distributing plant to determine if the payments to dairy farmers are equivalent to payments which would be required under full regulation. Under this option, any amount by which such payments at both plants are less than under full regulation would be owed to the producer-settlement fund. This accords the same conditions to milk from a supply-type plant as is accorded milk received directly from dairy farmers at an unregulated distributing plant.

If the necessary information as to the supply plant is not provided, the obligation of the unregulated distributing plant under this option for milk from the supply plant will be computed in the same manner as the obligation of a regulated plant for a receipt of unregulated milk.

(e) *Distribution of proceeds to producers.* The order should contain provisions which describe the means whereby the payments made by handlers for milk at class prices are converted to uniform prices to be paid to producers. The provisions should specify also the terms under which such payments must be made.

(1) *Type of pool.* The order should provide for market pooling of the value of producer milk used by all handlers.

Under a market pool the total money obligation of all handlers in the market for producer milk is combined to compute a uniform price applicable to all producer milk.

To accomplish this purpose it is necessary that there be an exchange of money among handlers such that each handler is enabled to pay the marketwide uniform price. The transfer of money is made through a producer-settlement fund established by the market administrator. Each handler pays into the producer-settlement fund any plus difference between the value of his milk at the market uniform price based on the market utilization of all handlers, and the value of his milk computed at the class prices. A handler whose milk has a lesser value at the class prices than at the market uniform price receives payment at the difference from the producer-settlement fund. This arrangement enables each handler to pay the uniform price to producers subject to butterfat and location differentials, and prescribed payments for base and excess milk.

Market pooling has been provided under the Delta order since its inception in November 1958. Market pooling was also provided under the Central Mississippi order prior to its termination.

The marketwide pool will insure that each producer supplying the market will receive a return reflecting his pro rata share of Class I and Class II utilization. Each producer will receive a "blend" price for his milk which will reflect the average utilization of all pool plants in the market. Each handler, however, will pay for milk according to the class prices.

The marketwide pooling of returns to producers will promote efficient handling of milk in the area. The proposed marketing area encompasses a wide geographical territory in which the supply of milk readily available at some plants varies considerably from the ampleness of supply at others. Some plants disposing of milk in the proposed marketing area have little, if any, facilities for manufacturing reserve milk. Such plants normally limit their receipts of producer milk to the quantity needed for Class I in the flush production season and procure supplemental supplies of milk for Class I during the short production season. Other plants have some manufacturing facilities or outlets available to market surplus supplies, and thus are able to carry adequate supplies of milk throughout the year.

A market pool will enable the handlers with manufacturing facilities, or any cooperative association, to handle the reserve supplies and yet pay to producers the same price as is paid by handlers who do not assume the responsibility of carrying the necessary reserve. The lower return for the reserve milk in the market will thereby be apportioned equally among all producers in the market. Under an individual-handler pool this burden would be carried by individual groups of producers.

There are several governmental institutions in the area which let substantial contracts for fluid milk products on a bid basis. Without such pooling, some groups of producers would be deprived of the benefits of such substantial Class I sales while others would enjoy more than average returns. A market pool will insure the sharing among all producers of the Class I utilization disposed of by individual handlers under contracts for large quantities such as to military bases. Thus, under the market pooling arrangement, shifting between handlers of the contract for sales to military installations and other public institutions may occur without upsetting the market.

Most handlers in the proposed Mississippi marketing area depend on one of the four proponent associations for their "balancing" supplies, and the cooperatives assume responsibility in disposition of milk in excess of handlers' needs. Mississippi Milk Producers Association, for instance, handled reserve milk equal to approximately 50 percent of producer milk allocated to Class II milk under the former Central Mississippi order and the present Mississippi Delta order during the period September 1963 through August 1964. It would be impossible for such association to maintain equitable returns to producer members without the operation of a market pool.

Nineteen of the twenty-one distributing plants operated by handlers to be regulated receive milk from the cooperative associations. These handlers depend on the associations for their regular and supplemental supplies as well as outlets for their surplus milk. Two of the associations operate plants which have historically served as outlets for producer milk which exceeded handlers' fluid milk requirements.

Two Delta handlers proposed that the method of pooling should be changed to individual-handler pooling. One distributes "breed" milk, and it was his position that the marketwide pooling arrangement did not accommodate his type of operation. This handler asserted he could not depend on the local market for a reserve supply because supplemental breed milk to meet his particular needs was not ordinarily available. The handler contended that under handler-pooling the returns to his particular group of producers from his operation would encourage development of a supply suited to his needs. He pointed out that he has purchased supplemental milk from outside the market in all but 3 months since November 1958.

Other support for handler pooling came from the Gulf Coast Dairymen's Cooperative Association. The outlets for milk of this association, however, are in the Gulf Coast area which would not be regulated except in the Keesler Air Force Base. The handler supplied by the association which currently sells milk at the base would not qualify for pooling on the volume of such sales indicated on the record.

Under an individual-handler pooling system, handlers in this consolidated market would be encouraged to buy from producers only enough milk to supply their Class I needs. Thus, a handler having 100 percent Class I utilization could add producers whenever he needed more milk and discontinue purchases from certain producers when he did not need the milk for Class I use. If handlers chose to pursue a practice of adding and dropping of producers in this market where military contracts are a substantial portion of the Class I milk sales, this would create unstable marketing conditions and would shift the burden of carrying the necessary reserve for the market to other handlers and to other producers.

To the extent that particular handlers demand milk of higher quality or milk of other special requirements not required by the responsible health authorities, such handlers presumably must accord extra remuneration to their producers and of course they may do so since the order sets only minimum prices. The same would be true of handlers specializing in breed milk. The prices established by the order, however, are those which are necessary to maintain an adequate but not excessive supply of milk of standard quality for the market as a whole. The particular problem raised by handlers of specialty milk is thus separate and apart from the general purpose of the order pricing. The solution to such problem proposed by such handlers would serve the interest of these individual handlers, but is not in the interest of the majority of producers.

(2) *Base-excess plan.* The base-excess plan presently applicable for the Mississippi Delta order with slight modifications should be adopted for the consolidated market.

A base and excess plan will serve as an effective means of evening out the seasonal pattern of milk deliveries. This may be accomplished by relating producer returns during high production months to the same producer's deliveries of milk during the low production months. Such a plan helps to achieve a level production pattern throughout the year which is in the interest of orderly marketing. The tendency for production to vary seasonally increases the problems of handling reserve milk for the market.

The base-excess plan proposed by the cooperative associations and, included herein, is identical with minor exception, to that used by handlers in the Mississippi Delta and former Central Mississippi areas. The base-forming period would be the months of September through January. Each producer would be assigned a daily base equal to his total receipts at a pool plant during the base-forming period divided by the total number of days' production from the first day's production received during such period to the last day's production received in this period, but not less than 120 days. Days of production in September would include the days in August on which milk was produced in such month and delivered in September, and days of production in January would exclude the days in January on which milk was produced in such month and delivered in February. The daily bases for each producer should be announced by the market administrator on or before March 1 of each year.

During the months of March through July, separate uniform prices would be computed for base milk and excess milk. Base milk of each producer would be that quantity of milk delivered by him during the month up to his average daily base multiplied by the number of days of production delivered by such producer to handlers during the month. Milk delivered in addition to this quantity by the producer would be excess milk.

Base and excess prices would be computed by first assigning excess milk to Class II milk. The excess price would be the Class II price except in those months when the total Class I sales exceed the total quantity of base milk. During such months the excess price would be a blend of the Class I and Class II usage of excess milk. The base price is determined by dividing the total volume of base milk into the remaining value of milk of all producers after subtracting the value of excess milk and the value of milk from producers with no base.

In some cases, due to audit adjustment or inventory classification, the normal procedure for calculation of base and excess prices might result in a base price higher than the Class I price. In such instances, such additional value over the Class I prices should be assigned first to excess milk until the value of excess milk per hundredweight is brought up to the Class I price, and the remaining additional value should be prorated between base and excess milk. This would result in identical base and excess prices.

Certain rules should be provided for regulating the transfer of established bases between producers. Transfers of bases within these rules should be made only on written request filed with the market administrator. Such request must be signed by the base holder or his heirs and by the person to whom such base is transferred.

It would be possible through the manipulation of ownership during the base-forming period to achieve a combined base of two producers in excess of the base which would have been earned by one producer delivering the same milk production. The intent of the order, however, is to provide a means of determining a base for each producer in accordance with the actual receipts of milk at pool plants during the base-forming period. To accomplish this intent under conditions where bases are transferred, the total base should be determined by adding together the milk deliveries of the transferee and transferor during the base-forming period and dividing this total by the number of days' production from the day the first day's production was received from either producer during the base-forming period to the last day's production received in such period, but not less than 120 days.

The proposed rules also provide for computing bases for dairy farmers delivering to a plant which first achieves pool plant status in a base-paying period. For such farmers bases would be computed from records of deliveries during the preceding base-forming period. Such provision will permit these producers to share equitably with all other producers in the returns for milk.

Also, should the effective date of this order occur after the beginning of the period provided for computing bases, this provision would allow for the establishment of bases computed on deliveries during the entire preceding base-forming period.

(3) *Producer-settlement fund.* Because all producers will receive payment at the rate of the marketwide uniform price (or uniform base and excess prices) each month, and because the payment due from each handler at the applicable class prices may be more or less than he is required to pay directly to his producers, some method of balancing these differences is necessary. For this purpose the market administrator shall establish a producer-settlement fund. A handler who is required to pay more according to his utilization than he is required to pay his producers, shall pay such difference into the producer-settlement fund. A handler who is required to pay less according to his utilization than he is required to pay his producers shall receive such difference from the producer-settlement fund.

For efficient functioning of the producer-settlement fund, a reasonable reserve should be set aside each month. This fund is necessary to cover such contingencies as a failure of a handler to pay his monthly billing promptly to the fund, or payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the order by withholding from the pool computation each month an amount equal to not less than 4 cents nor more than 5 cents per hundredweight of producer milk. Half of the reserve so accumulated would be added each month to the pool.

If the balance in the producer-settlement fund is insufficient to cover the payments due handlers, the market administrator shall uniformly reduce payments per hundredweight to such handlers. The remaining amounts due such handlers should be paid as soon as the balance in the fund is sufficient to meet such payments, and producers in turn should receive full payment from handlers. In order to reduce the possibility of this occurring, milk received by any handler who has failed to make the required payments for the preceding month would not be included in the computation of the uniform price.

(4) *Payments to individual producers and to members of cooperative associations.* Each handler should pay each producer for milk received from him and for which payment is not made to a cooperative association, not later than the last day of the month, for milk received from such producer during the first 15 days of such month, an amount per hundredweight not less than the Class II price for the preceding month. Final payment at the applicable uniform price should be made no later than the 15th day after the end of each month.

The advance payment on or before the last day of the month should be required only for those producers still delivering to the handler after the 18th day of the month. This requirement should protect the handler from possible overpayment and at the same time assure producers of timely and reasonable advance payments.

Provision should be made for a cooperative association, if it so desires, to receive payment for the producer milk of its members which is received by a pool plant. The collection of payments for milk of its members will permit the cooperative association to reblend proceeds from the sale of such milk, will tend to facilitate the transfer of milk from handler to handler to maximize the use of producer milk in Class I, and will aid in the diversion of surplus milk to other plants. Thus, a cooperative association will be assisted in discharging its responsibilities to its members and the market. The Act provides for the payment by handlers to cooperative associations of producers for milk delivered by their members and permits the reblending of all proceeds from the sale of member milk. Cooperative associations in the area have contracts with their members which allow the associations to collect payment for members' milk. Therefore, each handler, if so requested, should pay cooperative associations, in lieu of paying the producer, the full amount due for such producer's milk. The association's request should provide for reimbursement for any loss incurred because of an improper claim. Handlers should be required to pay the association two days before payment is required to be made to individual producers so that the cooperative will have time to reblend its receipts and pay its members on the same date nonmembers are required to be paid.

A handler should be required also to pay a cooperative association for all milk purchased from such association in its capacity as a pool handler at not less than the class use value of such milk computed at the specified order prices. A cooperative association may not sell milk to any handler at less than the specified order prices and this provision will implement the enforcement of such requirement.

At the time final settlement is made by the handler, he should submit to the producer (or his cooperative association) a supporting statement. Such statement should contain the identity of each producer, the total pounds and average butterfat content of milk, the rate used in making the payment, the rate and nature of each deduction claimed by the handler and the net amount of payment to each producer.

(f) *Administrative provisions.* Certain other provisions are needed in the order to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

(1) *Terms and definitions.* In addition to the definitions discussed earlier in this decision which established the scope of regulation, certain other terms and definitions are desirable for the purpose of brevity and to assure that each usage of the term implies the same meaning. Such terms as defined in the proposed order are common to most other Federal orders.

(2) *Market administrator.* The order should provide for the appointment by the Secretary of a market administrator to administer the order and should set forth powers and duties of the market administrator.

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

It is essential that handlers' reports be submitted to the market administrator not later than the sixth day of each month. The market administrator should announce the uniform price and the uniform prices for base milk and for excess milk for the previous month's milk by the 10th of each month. The payroll report of each handler should be submitted to the market administrator on or before the 20th day of each month. It should include such information as weight, butterfat tests, payments for milk and authorized deductions.

Handlers should maintain and make available to the market administrator all records and accounts of their operations which are necessary to determine the accuracy of the information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled and to verify all payments required under the orders.

Detailed reports to the market administrator by all handlers would be used to determine whether the plants of such handlers qualify as pool plants.

The market administrator should report to each cooperative association, which so requests, the percentage of milk delivered by its members and utilized in each class at each pool plant receiving such milk. For the purpose of this report the percentage of members' milk in each pool plant should be prorated in the proportion that producer milk was utilized by that handler. These reports are necessary for cooperative associations to market their member milk most efficiently so that available producer milk will be channeled to available Class I uses.

It is necessary that handlers retain records to prove the utilization of the milk received and that proper payments were made therefor. Since the books of all handlers associated with the market cannot be audited immediately it is necessary that such records be kept for a reasonable period of time.

The order should provide 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 should terminate. The obligations of any handler under the order shall 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 the handler fails or refuses to make available all required books and records or a handler's obligation involves fraud or willful concealment of a fact. The provisions made in this order are identical in principle to those adopted for all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F.R. 444). Official notice of such decision was taken on the record. The reasons for such provisions as are set forth in that decision are similarly applicable to the situation in this market and the provisions should be adopted in this order.

(4) *Expense of administration.* The Act requires handlers to pay the cost of operating an order through an assessment on milk handled. Each handler operating a pool plant should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 5 cents, or such lesser amount as the Secretary may prescribe, on all receipts within the month of milk from producers including milk of such handler's own production, any other source milk allocated to Class I (except milk so assessed under another Federal order), and milk received from a cooperative association in its capacity as a handler on farm bulk tank milk.

The maximum rate of administrative assessment of 5 cents per hundredweight continues the rate currently effective under the Mississippi Delta order and the same rate of assessment provided under the now terminated Central Mississippi order. This rate appropriately provided funds for the market administrator to meet the necessary cost of administering these orders. Since the funds from this rate of assessment covered the expense of prior administration of the regulation of the milk which now will be regulated under this order, it is concluded that it will provide adequate funds to cover the administrative costs.

This order specifies minimum performance standards which must be met to obtain regulated status. With certain specified exceptions, operators of plants not meeting such standards would, under the provisions proposed in this decision, be required to either make specified payments into the producer-settlement fund on route distribution in the marketing area in excess of offsetting purchases of Federal order Class I milk, or otherwise pay into such fund and/or to dairy farmers, an amount not less than the full classified use value of receipts (computed as though such plant were a fully regulated plant).

The market administrator, in administering an order as it applies to the nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. Partial regulation (as prescribed) of such distributor does not, however, provide the same benefits to such handler as accrue to the fully regulated handler; i.e., the privilege of participation in the market pool and assurance of uniform price payments to his diary farmers. If the nonpool route distributor elects to make a payment on his in-area sales at the difference between the Class I price and the uniform price for the market, the expenses incurred by the market administrator in administering the terms of the order on such handler are nominal and payment of the administrative assessment on his in-area sales reasonably would constitute his pro rata share of administrative expense.

In the situation where such a distributor for any reason actually pays his dairy farmers the full use value of their milk (computed at order prices), it has in the past on the basis of substantial record evidence in promulgation hearings, been found necessary in many areas to require payment by such distributor of an administrative assessment on his total receipts of milk in order to defray the costs of complete plant auditing to verify the utilization and payments as claimed. In large measure, such a distributor's operations are more comparable to those of a fully regulated handler and such assessment is substantially the same as for a fully regulated handler. There is reason to believe, however, that in some instances such an assessment might make possible a financial obligation under the order in excess of his total obligation through the alternative of electing to make a payment into the producer-settlement fund. From the financial standpoint such a situation provides little practical alternative to such handler but to pay the required pool payment. In order to give more meaningful effect to the choice of an alternative, the pro rata share of the administrative expense of the order should be the regular assessment rate applied to such milk as is actually disposed of as Class I in the regulated area that exceeds Class I milk received from other regulated plants or other order plants, irrespective of whether the option to pay into the producer-settlement fund is elected by the unregulated distributor.

In the case of unregulated milk which enters the market through a fully regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk as well as on all other milk received and utilized. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. It is concluded, therefore, that the regulated handler should be responsible for payment of the administrative assessment with respect to such unregulated milk.

The market administrator must have funds sufficient to enable him to administer the order. The order is designed to share this cost equitably among all handlers distributing milk in the proposed marketing area. However, to prevent duplication an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

(5) *Marketing service.* Provisions should be made in the order for providing for marketing services to producers, such as the verification of tests and weights of producer milk and furnishing them with market information. The services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. If a qualified cooperative association is performing such services for its member producers and is approved for such activity by the Secretary, the market administrator may accept this in lieu of his own services.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producers' deliveries as reported by the handler are proved to be accurate.

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

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 7 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. This is the same rate as previously provided in the Central Mississippi and Mississippi Delta orders and has provided funds necessary to conduct the program. If later experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing. In the event a qualified cooperative association has been determined to be performing such marketing services for its members, handlers would be required to pay to the cooperative association such deductions as are authorized by its producer members.

(6) *Interest payments on overdue accounts.* Provision is made for the payment of interest on amounts due to the market administrator at the rate of one-half of 1 percent each month beginning on the third day following the date such obligation is due and until such obligation is paid.

Prompt payment of amounts due to 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. The rate provided herein is reasonable to compensate for the cost of borrowing money in accord with normal business practices.

On the other hand, there was no presumption of delay of payments by the market administrator once obligation on his part is established, unless the monies properly due to him from handlers had not yet been received. Accordingly, there is no need to apply interest charge on obligations owed by the market administrator to handlers.

4. *Mississippi Delta order issues.* Inasmuch as it has been concluded that the marketing area presently regulated by the Mississippi Delta order should be part of the proposed Mississippi order, there is no need to make further findings with respect to amendments to the Delta order. The Mississippi Delta order would be merged with the proposed Mississippi order upon its issuance.

Supplemental determination. The termination order issued by the Acting Secretary on August 27, 1964, terminated all provisions of Order Nos. 103 and 107, except those relating to liquidation and continuing obligations. To implement the completion of the requirements of these provisions in a manner which will coordinate with the issuance of the proposed Mississippi order, provision should be made for the orderly and equitable disposition of funds under the Central Mississippi, Mississippi Delta, and Mississippi Gulf Coast orders. The entire assets of the Central Mississippi and Mississippi Delta administrative fund should be transferred to the administrative fund of the Mississippi order. The assets of the Mississippi Gulf Coast administrative fund should be allocated to handlers pro rata to their contribution to such fund based on assessments on milk received during the period September 1962 through August 1964. Monies should be paid to the respective handlers according to this allocation, except that monies so allocated to the Gulf Milk Association should be transferred to the administrative fund of the Mississippi order. Gulf Milk Association, with respect to its distributing plant at Picayune, Miss., is the only handler with a plant fully regulated under the Mississippi Gulf Coast order during the period of September 1962 through August 1964 which would also be a fully regulated plant under the proposed Mississippi order. Transfer of such funds attributable to this plant will place all handlers with plants subject to full regulation on an equitable basis.

Reserves in the producer-settlement funds and assets of the marketing service funds should be disposed of by parallel procedures. However, in view of administrative problems which would be encountered in precisely distributing these funds to producers and the amounts of monies to be distributed, the producer-settlement fund reserve of the Mississippi Gulf Coast order should be allocated to producers pro rata to their producer milk deliveries in August 1964. Monies so allocated to members of Gulf Milk Association should be transferred to the producer-settlement fund of the Mississippi order and monies allocated to other producers should be paid directly to them by the market administrator on behalf of the handler. Assets of the marketing service fund of the Mississippi Gulf Coast order should be allocated to producers who were not members of a cooperative association in August 1964 and to producers who were members of Gulf Coast Dairymen's Association at that time pro rata to their producer milk deliveries. The Gulf Coast Dairymen's Association is a relatively new cooperative association and its members made substantial contributions to the marketing service fund and therefore merit an equity in such reserve. Monies so allocated should be paid directly to the producers by the market administrator.

Persons receiving payment from such funds or for whom such payments are made by the market administrator shall have no further claims against the respective fund. Any other liabilities of such funds under the individual orders should be paid from the new funds so created. Similarly, obligations which are due and owing to the funds under the separate orders should remain and be paid into the combined funds under the Mississippi order.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. 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;

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

(d) All milk and milk products handled by handlers, as defined in the Mississippi order, as hereby proposed, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

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

(ii) Other source milk allocated to Class I pursuant to § 1103.46(a) (3) and (7) and the corresponding steps of § 1103.46(b);

(iii) Applicable amounts specified in § 1103.62; and

(iv) Receipts from a cooperative association in its capacity as a handler pursuant to § 1103.13(d).

Recommended marketing agreement and order. The following order regulating the handling of milk in the Mississippi 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.

Order Regulating the Handling of Milk in the Mississippi Marketing Area[3]

DEFINITIONS

MARKET ADMINISTRATOR

REPORTS, RECORDS, AND FACILITIES

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

CLASSIFICATION

MINIMUM PRICES

APPLICATION OF PROVISIONS

DETERMINATION OF PRICES TO PRODUCERS

BASE RATING

PAYMENTS

MISCELLANEOUS PROVISIONS

AUTHORITY: The provisions of this Part 1103 issued under secs. 1–19, 48 Stat., 31 as amended: 7 U.S.C. 601–674.

DEFINITIONS

§ 1103.1 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.).

§ 1103.2 Secretary.

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

§ 1103.3 Department.

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

§ 1103.4 Person.

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

§ 1103.5 Cooperative association.

"Cooperative association" means any cooperative marketing association 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"; and

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

§ 1103.6 Mississippi marketing area.

The "Mississippi marketing area", hereinafter called the "marketing area", means all the territory geographically within the places listed below, all waterfront facilities connected therewith and all territory wholly or partially therein occupied by government (municipal, State or Federal) reservations, installations, institutions or other similar establishments all in the State of Mississippi:

COUNTIES

Adams.	Madison.
Attala.	Marion.
Bolivar.	Montgomery.
Calhoun (Beats 1 and 4 only).	Neshoba.
Carroll.	Newton.
Choctaw.	Noxubee.
Claiborne.	Oktibbeha.
Clarke.	Perry.
Coahoma (Beats 4 and 5 only).	Quitman (Beats 2, 3, 4, and 5 and the village of Crowder including that portion in Panola County).
Copiah.	Rankin.
Covington.	Scott.
Forrest.	Sharkey.
Franklin.	Simpson.
Grenada.	Smith.
Harrison (Keesler Air Force Base only).	Sunflower.
Hinds.	Tallahatchie.
Holmes.	Walthall.
Humphreys.	Warren.
Jasper.	Washington.
Jefferson.	Wayne.
Jefferson Davis.	Webster (except Beat 5).
Jones.	Winston.
Lamar.	Yazoo.
Lauderdale.	Yalobusha (Beats 1, 4 and 5 only).
Lawrence.	
Leake.	
Leflore.	
Lincoln.	
Lowndes.	

§ 1103.7 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a plant to wholesale or retail outlets (including any delivery by a vendor, from a plant store or through a vending machine) other than a delivery to a plant.

§ 1103.8 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products are received and/or processed or packaged: *Provided*, That a separate establishment or facility used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1103.9 Distributing plant.

"Distributing plant" means a plant from which fluid milk products, eligible for distribution under a Grade A label are disposed of during the month as route disposition in the marketing area.

§ 1103.10 Supply plant.

"Supply plant" means a plant from which fluid milk products, eligible for distribution under a Grade A label, are moved during the month to a distributing plant.

§ 1103.11 Pool plant.

"Pool plant" means:

(a) A distributing plant other than the plant of a producer-handler, from which a volume of Class I milk not less than 50 percent of the Grade A milk received at such plant from dairy farmers is disposed of during the month as route disposition and the volume so disposed of in the marketing area is at least 20 percent of its total Class I route disposition or a daily average during the month of 7,000 pounds, whichever is less;

(b) A supply plant from which a volume of fluid milk products not less than 50 percent of the Grade A milk received at such plant from dairy farmers is transferred during the month to a distributing plant(s) from which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk from dairy farmers and from other plants is disposed of as route disposition during the month and the volume so disposed of in the marketing area is at least 20 percent of its total Class I route disposition or a daily average during the month of 7,000 pounds, whichever is less: *Provided*, That any plant which was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for the remaining months through August; and

(c) A nondistributing plant, which is operated by a cooperative association and which does not meet the shipping requirements of paragraph (b) of this section, in any month in which the volume of milk received at pool distributing plants directly from member producers of such cooperative association is not less than 60 percent of the total pounds of such association's member producer milk (including that received at such nondistributing plant), received by all pool handlers during the month, except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section.

§ 1103.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade-A label are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

§ 1103.13 Handler.

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

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with § 1103.15;

(d) A cooperative association with respect to the milk of any member producer which it causes to be delivered to a pool plant in a tank truck owned and operated by or under contract to such cooperative association for the account of such cooperative association, if the cooperative association, prior to delivery, furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered that it will be the handler for such milk. The milk so delivered shall be considered to have been received by such cooperative association at a pool plant at the location of the pool plant to which it is delivered.

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant pursuant to § 1103.61.

§ 1103.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant which, during the month, received no other source milk (except own production), producer milk, or milk from a pool plant: *Provided*, That such person establishes that the maintenance, care and management of all resources necessary to produce the entire volume of fluid milk products handled and all facilities necessary for operations as a handler are each the personal enterprise and risk of such person.

§ 1103.15 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant or by a cooperative association pursuant to § 1103.13(d), or is diverted pursuant to paragraphs (a) through (e) of this section: *Provided*, That milk diverted in accordance with the provisions of said paragraphs shall be deemed to have been received by the diverting handler at the location of the pool plant from which it was diverted and: *Provided further*, That if a handler, diverting milk pursuant to paragraph (d) or (e) of this section, diverts in excess of the limits prescribed all diversions by such handler during the month shall be pursuant to paragraph (c) and: *Provided also*, That if a handler diverting milk pursuant to paragraph (c) of this section, diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant:

(a) Diverted by the operator of a pool plant to another pool plant;

(b) Diverted to a nonpool plant(s) (except a plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) by the operator of a pool plant or by a cooperative association as a handler pursuant to § 1103.13(c) during any of the months of December through August: *Provided*, That this diversion privilege shall be applicable only to the milk of those dairy farmers who held producer status throughout the entire 2 immediately preceding months, except that only for the purpose of determining eligibility for diversion during any month of December through August a dairy farmer who was in noncompliance with the Grade A requirements of a duly constituted health authority during any part of the 2 immediately preceding months shall be considered to have maintained producer status during the period of such noncompliance;

(c) Diverted to a nonpool plant(s) (except a plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) for not more than 10 days production during any month of September through November except that this paragraph shall not be applicable if: (1) In the case of a cooperative association all of the diversions of milk of member producers by such cooperative association during the month fall within the limits prescribed in paragraph (d) of this section, or (2) in the case of a pool handler (other than a cooperative association) diverting milk of nonmember producers, all of such diversions from such plant fall within the limits prescribed in paragraph (e) of this section;

(d) Diverted during any month of September through November to a nonpool plant(s) (except a nonpool plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) as milk of a member of a cooperative association for the account of such association if the amount of milk so diverted does not exceed 15 percent of the volume of Grade A milk from all producer members of such cooperative association received at pool plants during such month; or

(e) Diverted during any month of September through November to a nonpool plant(s) (except a nonpool plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) as milk of a producer who is not a member of a cooperative association by a handler in his capacity as the operator of a pool plant from which the quantity of milk of nonmember producers so diverted does not exceed 15 percent of the total Grade A receipts of milk at such plant from nonmember producers.

§ 1103.16 Producer milk.

"Producer milk" means only the skim milk or butterfat contained in milk (a) received at a pool plant(s) directly from a producer, (b) diverted in accordance with the provisions of § 1103.15 to the pool plant of another pool handler or to a nonpool plant, or (c) received by a cooperative association pursuant to § 1103.13(d).

§ 1103.17 Other source milk.

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

(a) Receipts during the month in the form of fluid milk products, except (1) such products which are received from other pool plants, (2) producer milk, (3) milk received from a cooperative association for which it is the handler pursuant to § 1103.13(d), and (4) inventory of fluid milk products at the beginning of the month; and

(b) Products other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month or for which other utilization or disposition is not established.

§ 1103.18 Fluid milk product.

"Fluid milk product" means all the skim milk (including concentrated, other than bulk condensed, and reconstituted skim milk) and butterfat in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, eggnog, yogurt, cream (sweet or sour) and any mixture in fluid form of cream and skim milk or milk (except aerated cream, frozen storage cream, ice cream, ice cream mixes, frozen ice milk, ice milk mixes, frozen dessert and mixes, and sterilized products contained in hermetically sealed cans); *Provided*, That when any such milk product is fortified with nonfat milk solids the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unfortified product of the same nature and butterfat content.

§ 1103.19 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 range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1103.20 Designation.

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

§ 1103.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1103.22 Duties.

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

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

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

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

(d) Pay out of the funds provided by § 1103.95, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1103.94) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate:

(1) On or before the sixth day of each month, the minimum price for Class I milk computed pursuant to § 1103.51(a) and the Class I butterfat differential computed pursuant to § 1103.52(a), both for the current month and the minimum price for Class II milk computed pursuant to § 1103.51(b) and the Class II butterfat differential computed pursuant to § 1103.52(b), both for the previous month;

(2) On or before the 10th day after the end of each month the applicable weighted average price or uniform price computed pursuant to § 1103.71, and the butterfat differential computed pursuant to § 1103.91; and

(3) On or before the 10th day after the end of each of the months of March through July, the uniform prices for base milk and for excess milk computed pursuant to § 1103.72, and the butterfat differential computed pursuant to § 1103.91;

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

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

(l) On or before the 12th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1103.30, at his last known address, a statement showing any of the applicable following values:

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

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

(3) The amounts to be paid by such handler pursuant to §§ 1103.62(a), 1103.93(a), 1103.94(a), 1103.95, 1103.97 and 1103.99 and the amount due such handler pursuant to §§ 1103.93, 1103.98 and 1103.99;

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1103.46(a)(8) and the corresponding step of § 1103.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1103.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1103.30 Reports of receipts and utilization.

(a) On or before the sixth 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 § 1103.13 (c) or (d) shall deliver to the market administrator a report in the detail and on the form prescribed by the market administrator showing the following:

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

(i) Receipts of producer milk, including such handler's own production, and for the months of March through July, the aggregate of base and excess milk, respectively;

(ii) Receipts of fluid milk products from other pool plants and from cooperative associations which are handlers pursuant to § 1103.13(d);

(iii) Receipts of other source milk; and

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

(2) Utilization of all skim milk and butterfat required to be reported pursuant to this section including a statement of the route dispositions of fluid milk products outside the marketing area;

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

(b) Each handler specified in § 1103.13(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk;

(c) Each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and

(d) Each pool handler, with respect to fluid milk products disposed of for animal feed shall report to the market administrator such information and at such time as the market administrator may require.

§ 1103.31 Payroll reports.

(a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 1103.13 (c) or (d), shall report its producer payroll for the preceding month which shall show for each producer:

(1) His name and, if not previously reported, address of each producer;

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

(3) The number of days on which milk was received from such producer;

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

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

(b) Each handler who received producer milk for which payment is to be made to a cooperative association pursuant to § 1103.90(c) shall report to such cooperative association with respect to each such producer as follows:

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

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

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

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

(c) On or before the 20th day after the end of the month each handler operating a partially regulated distributing plant except one who elects at the time of reporting pursuant to § 1103.30 to make payments pursuant to § 1103.62(b) shall report his payments to dairy farmers qualified to be producers as if such plant were a pool plant showing for each such dairy farmer;

(1) The pounds of milk received;

(2) The average butterfat content thereof; and

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

§ 1103.32 Other reports.

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

§ 1103.33 Records and facilities.

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

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

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

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

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

§ 1103.34 Retention of records.

All books and records required under this Part to be made available to the market administrator shall be retained by the handler for a period of 3 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 specific 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 of when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1103.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported pursuant to § 1103.30 shall be classified pursuant to the provisions of §§ 1103.41 through 1103.46.

§ 1103.41 Classes of utilization.

Subject to the conditions set forth in §§ 1103.42 through 1103.46 the classes of utilization shall be as follows:

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

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2), and (3) of this section; and

(2) Not 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 fluid milk products dumped, provided that the market administrator is notified during the usual hours of business and not less than 4 hours prior to dumping and is given opportunity to verify such dumping;

(3) Disposed of for livestock feed if the conditions of § 1103.30(d) are met;

(4) Contained in inventory of fluid milk products on hand at the end of the month;

(5) Contained in actual shrinkage of skim milk and butterfat, respectively, not to exceed the amounts calculated for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1103.13(d) as follows:

(i) Two percent of receipts of skim milk and butterfat directly from producers; plus

(ii) One and one-half percent of fluid milk products received in bulk (except bulk cream) from other pool plants and from cooperative associations in their capacity as handlers pursuant to § 1103.13(d) except that where the handler is purchasing milk from a cooperative association in its capacity as a handler pursuant to § 1103.13(d) and files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of the butterfat tests of farm drawn samples and weights determined at the farm, the applicable percentage on such milk shall be 2 percent; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(v) One and one-half percent of bulk transfers (except bulk cream) and diversions to a pool plant of other handlers (in the case of a cooperative association selling milk to a handler on the basis of farm weights and tests as provided in subdivision (ii) of this subparagraph, the percentage on such milk shall be 2 percent); less

(vi) One and one-half percent of bulk transfers or diversions to nonpool plants; plus

(vii) Shrinkage on other source milk determined pursuant to §1103.42(b)(2); and

(6) Skim milk contained in any fortified fluid milk products in excess of the pounds of skim milk in such product classified as Class I pursuant to paragraph (a) of this section by virtue of the proviso of § 1103.18.

§ 1103.42 Assignment of shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for such plant; and

(b) Prorate the resulting amounts between the skim milk and butterfat contained in:

(1) Receipts specified in § 1103.41 (b)(5) (i) through (iv); and

(2) Remaining receipts of other source milk in the form of fluid milk products in bulk.

§ 1103.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat can prove to the satisfaction of the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1103.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization reported pursuant to § 1103.30 by the transferor and transferee handlers, if transferred or diverted from a pool plant to another pool plant or transferred by a cooperative association in its capacity as a handler pursuant to § 1103.13(d), to a pool plant of another handler, otherwise as Class I milk, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1103.46(a)(8) and the corresponding step of § 1103.46 (b);

(2) If the transferor plant received during the month, other source milk to be allocated pursuant to § 1103.46(a)(3) the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1103.46(a) (7) or (8) and the corresponding steps of § 1103.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) If a specified utilization of skim milk and butterfat transferred to a pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1103.13(d) is not claimed by both handlers, such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the receiving handler after making the assignments pursuant to § 1103.46(a)(8) and the corresponding step of § 1103.46(b) and after assignment of milk for which specified classification has been claimed by handlers pursuant to this paragraph;

(b) As Class I milk if diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant located more than 200 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the New State Capitol in Jackson or the County Courthouse in Gulfport, Miss.;

(c) Except as specified in paragraph (b) of this section, as Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph.

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1103.30 for the month within which such transaction occurred;

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

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants;

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order;

(iii) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the skim milk and butterfat in transfers of milk, skim milk, and cream in bulk from the nonpool plant to pool plants, classified as if it were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification;

(iv) Remaining quantities of skim milk and butterfat transferred to the nonpool plant from a pool plant(s) and from a plant(s) at which milk is priced under another order issued pursuant to the Act shall be assigned (after the application of provisions of any other order similar to subdivision (iii) of this subparagraph) to the skim milk and butterfat, respectively, resulting from the following computation:

(*a*) Determine the skim milk and butterfat, respectively, in Class II (as defined pursuant to § 1103.41(b)(1)) at such nonpool plant during the month;

(*b*) Subtract the overage or add the actual shrinkage not to exceed 2 percent of total receipts of skim milk and butterfat, respectively, in total fluid receipts physically received at such nonpool plant during the month;

(*c*) Add the increases or subtract the decreases of skim milk and butterfat, respectively, in the inventory of fluid milk products at the end of each month at such nonpool plant as compared with that at the beginning of the month;

(*d*) Add the skim milk and butterfat, respectively, in milk, skim milk, or cream transferred in bulk from such nonpool plant to a plant at which milk is priced under this or another order issued pursuant to the Act which milk is allocated to other than Class I under the applicable order provisions at the transferee plant, but excluding any such transfer(s) that is classified under such other order pursuant to provisions similar to subdivision (iii) of this subparagraph;

(*e*) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a second nonpool plant meeting the conditions of subparagraph (2) of this paragraph, other than an other order plant or producer-handler plant, which skim milk or butterfat is not in excess of Class II (pursuant to § 1103.41(b)(1)) processed in such second nonpool plant plus the bulk fluid cream shipped therefrom to other nonpool plants which do not dispose of milk or cream in consumer packages for consumption in fluid form; and

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

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1103.41.

§ 1103.45 Computation of the skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization of each handler submitted pursuant to this part and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant of such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat dry milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1103.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1103.45, the market administrator shall determine the classification of producer milk received at each pool plant for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1103.41(b)(5) (i) through (vi);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of Class I transfers between pool plants of the same handler) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c)(i) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(ii) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made; and

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

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

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

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1103.22(m); or

(b) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii), should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association as a handler pursuant to § 1103.13(d) according to the classification assigned pursuant to § 1103.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1103.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) computed at 0.12 times the Chicago butter price. The basic formula price shall be rounded to the nearest full cent.

§ 1103.51 Class prices.

Subject to the provisions of §§ 1103.52 and 1103.53, the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* For the first 18 months in which the order is effective, the minimum Class I milk price shall be the basic formula price for the preceding month, plus $2.26 through July 1965 and effective August 1, 1965 and thereafter, plus $2.15 during the months of March through July and $2.35 in all other months;

(b) *Class II milk price.* The Class II milk price shall be the lesser of the following prices:

(1) The basic formula price for the months of August through February and the basic formula price less 10 cents in all other months; or

(2) The Class II milk price established pursuant to § 1094.51(b) of this chapter regulating the handling of milk in the New Orleans, Louisiana, marketing area.

§ 1103.52 Butterfat differential to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1103.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

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

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.11.

§ 1103.53 Location differential to handlers.

(a) For that milk which is received from producers at a pool plant or at such plant from a cooperative association as a handler pursuant to § 1103.13(d) and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1103.51(a) shall be reduced at the following rates (where mileage determinations are applicable these distances shall be determined by the market administrator by applying the shortest hard-surfaced highway distance open to commercial truck traffic):

Location:	Rate per hundredweight (cents)
(1) For milk received at a pool plant located in the following Mississippi counties: Adams, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, Hinds, Jasper, Jefferson, Jefferson Davis, Jones, Lamar, Lauderdale, Lawrence, Lincoln, Madison, Marion, Neshoba, Newton, Perry, Rankin, Scott, Simpson, Smith, Walthall, Warren, and Wayne	10.0
(2) For milk received at a pool plant located beyond the northern boundary of the counties listed in (1) but less than 30 miles north of the U.S. Highway No. 82	26.0
(3) Except as provided in subparagraph (2) of this paragraph, for milk received at a pool plant located outside the marketing area and:	
(i) More than 60 but not more than 160 miles from the Courthouse in Gulfport or Pascagoula, Miss., whichever is nearer	10.0
(ii) For each additional 10 miles or fraction thereof, an additional	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and receipts from a cooperative association in its capacity as a handler pursuant to § 1103.13(d) and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1103.54 Use of equivalent prices.

If, for any reason, a price specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

APPLICATION OF PROVISIONS

§ 1103.60 Producer-handler.

Sections 1103.42 through 1103.46, 1103.50 through 1103.54, 1103.61, 1103.62, 1103.70 through 1103.72, 1103.80 through 1103.83 and 1103.90 through 1103.99 shall not apply to a producer-handler.

§ 1103.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to a plant specified in paragraph (a), (b) or (c) of this section except that the operator thereof, with respect to receipts and utilization of skim milk and butterfat, shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe and allow verification of such reports by the market administrator.

(a) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order, and from which the Secretary determines a greater quantity of Class I milk is disposed of during the month as route dispositions in such other Federal order marketing area than was disposed of as route dispositions in this marketing area; except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which, the Secretary determines a greater quantity of Class I milk is disposed of during the month as route dispositions in this marketing area than is so disposed of in such other marketing area but which plant is nevertheless, fully regulated under such other Federal order; and

(c) A plant meeting the requirements of § 1103.11(b) which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part except during the months of February through August if such plant retains automatic pooling status under this part.

§ 1103.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1103.30(b) and 1103.31(c) the information necessary to compute the amount specified in paragraph (a), he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1103.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1103.70(e) and a credit in the amount specified in § 1103.97(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1103.30(b) and 1103.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1103.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk route dispositions in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

DETERMINATION OF PRICES TO PRODUCERS

§ 1103.70 Computation of the net pool obligation of each pool handler.

For each month the market administrator shall compute the obligation of each handler operating a pool plant(s) and cooperative association acting as a handler pursuant to § 1103.13 (c) or (d) by making the computations provided in paragraphs (a) through (e) of this section and adding together the resulting totals:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1103.46(c), by the applicable class prices (adjusted pursuant to §§ 1103.52 and 1103.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1103.46(a)(10) and the corresponding step of § 1103.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1103.46(a)(5) and the corresponding step of § 1103.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1103.46(a)(3) and the corresponding step of § 1103.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1103.46(a)(7) and the corresponding step of § 1103.46(b).

§ 1103.71 Computation of the weighted average price and uniform price.

For each month the market administrator shall compute the weighted average price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1103.70 for all handlers specified in § 1103.13 (a), (c), and (d) who filed reports prescribed by § 1103.30, and who made payments pursuant to § 1103.90 and § 1103.97 for the preceding month;

(b) Subtract, if the average butterfat content of the milk included under paragraph (e) 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 variation in the average butterfat content of such milk from 3.5 percent by the butterfat differential computed pursuant to § 1103.91, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made for location differentials pursuant to § 1103.92;

(d) Add not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk, and

(2) The total hundredweight for which a value is computed pursuant to § 1103.70 (e); and

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

The result shall be the "weighted average price", and, except for the months of March through July, shall be the "uniform price" for milk received from producers.

§ 1103.72 Computation of uniform prices for base milk and for excess milk.

For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(a) *Excess milk price.* (1) Assign the total hundredweight of excess milk, received by all pool handlers whose receipts are included in the computation pursuant to § 1103.71 to producer milk in each class in series beginning with Class II;

(2) Multiply the pounds of excess milk assigned to each class pursuant to subparagraph (1) of this paragraph by the applicable class price and add the resulting totals;

(3) Add the amount of any adjustment applicable pursuant to the proviso of subparagraph (b)(2) of this section; and

(4) Divide the resulting total by the hundredweight of excess milk and round to the nearest cent. The result shall be the "uniform price for excess milk"; and

(b) *Base milk price.* (1) From the aggregate value of all milk obtained in § 1103.71 (a) through (d) subtract the following:

(i) An amount computed by multiplying the hundredweight of milk specified in § 1103.71(e)(2) by the weighted average price; and

(ii) An amount computed by multiplying the hundredweight of excess milk determined pursuant to paragraph (a) of this section by the uniform price for excess milk;

(2) Divide the result by the total hundredweight of base milk received by all pool handlers whose receipts are included in the computation pursuant to § 1103.71: *Provided*, That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to subparagraph (3) of this paragraph the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(3) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the "uniform price for base milk".

Base Rating

§ 1103.80 Determination of daily base.

The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all pool plants from such producer during the months of September through January by the larger of:

(a) 120 days; or

(b) The number of days beginning with the first day in such months on which milk is received from such producer and ending with January 31 (plus the number of days prior to the day of such first receipts on which such milk was produced, and minus the number of days in January on which milk received from such producer in February was produced).

§ 1103.81 Computation of base.

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

§ 1103.82 Base rules.

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

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

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

(1) If a base is transferred to a producer already holding a base, a new base shall be computed by adding together the producer milk deliveries of the transferee and the transferor during the base-forming period and dividing the total by the larger of:

(i) 120 days; or

(ii) The number of days beginning with the first day on which milk is received from either the transferee or transferor during the base-forming period and ending with January 31 (plus the number of days prior to the day of such first receipt on which such milk was produced, and minus the number of days in January on which milk received from such producer in February was produced).

§ 1103.83 Announcement of established bases.

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

Payments

§ 1103.90 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) pursuant to § 1103.71 or § 1103.72 adjusted by the producer butterfat differential computed pursuant to § 1103.91, subject to the location adjustment to producers pursuant to § 1103.92, and less the following amounts;

(1) The payments made pursuant to paragraph (b) of this section;

(2) Marketing service deductions pursuant to § 1103.94; and

(3) Any proper deductions authorized in writing by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1103.98 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b) On or before the last day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section, and (2) who had not discontinued shipping milk to such handler before the 18th day of the month, an advance payment with respect to milk received from such producer during the first 15 days of the month at not less than the Class II price for 3.5 percent milk for the preceding month;

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

(1) On or before the 26th day of the month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the date, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1103.94, together with a description of the respective deduction; and

(6) The net amount of payment to the producer; or

(e) To a cooperative association for milk received from such association in its capacity as a handler as follows:

(1) On or before the 26th day of each month an amount equal to not less than the Class II price for 3.5 percent milk for the preceding month multiplied by the hundredweight of milk received from such association during the first 15 days of the current month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the utilization value of such milk computed at the applicable class prices less amounts paid pursuant to subparagraph (1) of this paragraph.

§ 1103.91 Producer butterfat differential.

In making payments pursuant to § 1103.90, the uniform price(s) shall be increased or decreased for each one-tenth of one percent that the butterfat content in milk received from each producer is above or below 3.5 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials pursuant to § 1103.52 weighted by the pounds of butterfat in producer milk in each class, rounded to the nearest one-tenth cent.

§ 1103.92 Location differential to producers and on nonpool milk.

(a) In making payment to producers pursuant to § 1103.90, the uniform price pursuant to § 1103.71 and the uniform price for base milk pursuant to § 1103.72 to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1103.53; and

(b) For purposes of computations pursuant to §§ 1103.97 and 1103.98 the weighted average price shall be adjusted at the rates set forth in § 1103.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1103.93 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or verification of weights and butterfat tests of milk or milk products discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such 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 under which such error occurred.

§ 1103.94 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 § 1103.90(a), shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of the milk for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(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 make, in lieu of the deduction specified in paragraph (a) of this section, 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 on or before the 15th day after the end of each month, and pay such deductions to such cooperative association.

§ 1103.95 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler, excluding a cooperative association in its capacity as a handler pursuant to § 1103.13(d), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production); (b) other source milk allocated to Class I pursuant to § 1103.46(a) (3) and (7) and the corresponding steps of § 1103.46 (b); (c) Class I milk disposed of from a partially regulated distributing plant as route dispositions in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants; and (d) milk received from a cooperative association in its capacity as a handler pursuant to § 1103.13(d).

§ 1103.96 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 applicable payments made by handlers pursuant to §§ 1103.62, 1103.93(a) and 1103.97, and out of which he shall make all applicable payments pursuant to §§ 1103.93(b) and 1103.98: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1103.97 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1103.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1103.90; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1103.70(e).

§ 1103.98 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 the amount, if any, by which the amount computed pursuant to § 1103.97(b) exceeds the amount computed pursuant to § 1103.97(a). 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 compute such payments as soon as the appropriate funds are available.

§ 1103.99 Overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1103.62, 1103.93(a), 1103.94(a), 1103.95 or 1103.97 shall be increased one-half of 1 percent each month or fraction thereof starting the third day after the date such obligation is due until such obligation is paid. Any remittance received by the market administrator postmarked not later than the date such obligation is due shall be considered to have been received when due.

§ 1103.100 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and 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 such producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-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 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; 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 2 years after the end of the calendar month during which the milk involved in the claim was received if an under payment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1103.105 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1103.106.

§ 1103.106 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

§ 1103.107 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, 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.

§ 1103.108 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such 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.

§ 1103.109 Agents.

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

§ 1103.110 Separability of provisions.

If any provision of this part, or its application to any persons 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.

Signed at Washington, D.C., on February 10, 1965.

CLARENCE H. GIRARD,
Deputy Administrator.

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