FEDERAL REGISTER

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PART I

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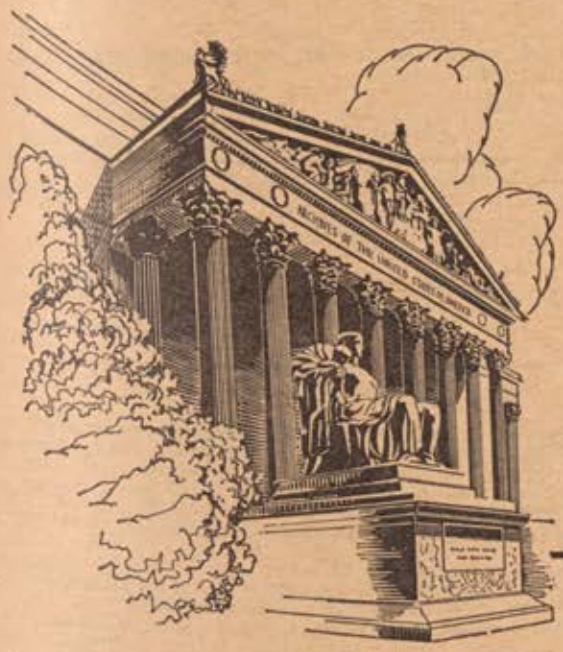

Just Released

ANNUAL INDEX TO THE FEDERAL REGISTER

[1964]

The Annual Index covers all documents published in the FEDERAL REGISTER during the calendar year 1964. Entries in the Index are carried primarily under the names of the issuing agencies; however, additional entries covering the most significant items are also carried in appropriate alphabetical position.

The 1964 Index contains 132 pages covering over 10,000 entries.

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Title 3—THE PRESIDENT

Executive Order 11203

PERMITTING CERTAIN QUALIFIED EMPLOYEES OF THE TREASURY DEPARTMENT TO BE GIVEN CAREER APPOINTMENT

By virtue of the authority vested in me by Section 2 of the Civil Service Act (22 Stat. 403) and Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) and as President of the United States, it is hereby ordered as follows—

SECTION 1. Any employee of the Treasury Department serving under an appointment under Schedule B of the Civil Service Rules in a position concerned with the protection of the life and safety of the President, members of his immediate family, or other persons for whom similar protective services are provided by law (which responsibility is hereinafter referred to as the protective function) may have his appointment converted to a career appointment if:

(1) he has completed at least three years of full-time continuous service in a position concerned with the protective function;

(2) the Secretary of the Treasury, or his designee, recommends the conversion of the employee's appointment within 90 days after the employee meets the service requirements of this section, or within 90 days after the date of this Order, whichever is later;

(3) he shall have passed a competitive examination appropriate for the position he is occupying or meets noncompetitive examination standards the Civil Service Commission prescribes for his position; and

(4) he meets all other requirements prescribed by the Commission pursuant to Section 5 of this Order.

SEC. 2. For the purposes of Section 1—

(1) "full-time continuous service" means service without a break of more than 30 calendar days;

(2) except as provided in paragraph (3) of this section, active service in the Armed Forces of the United States shall be deemed to be full-time continuous service in a position concerned with the protective function if the employee concerned shall have left a position concerned with the protective function to enter the Armed Forces and shall have been re-employed in a position concerned with the protective function within 120 days after he shall have been discharged from the Armed Forces under honorable conditions; and

(3) active service in the Armed Forces shall not be deemed to be full-time continuous service in a position concerned with the protective function if such active service exceeds a total of four years plus any period of additional service imposed pursuant to law.

SEC. 3. Any employee who shall have left a position concerned with the protective function to enter active service in the Armed Forces of the United States, who is re-employed in such a position within 120 days after his discharge under honorable conditions from such service, and who meets the requirements of Section 1 as the result of being credited with his period of active service in the Armed Forces pursuant to Section 2(2), may have his appointment converted if the Secretary of the Treasury, or his designee, recommends that conversion within 90 days after his re-employment.

SEC. 4. Whenever the Secretary of the Treasury, or his designee, decides not to recommend conversion of the appointment of an employee under this Order or whenever the Secretary, or his designee, recommends conversion and the employee fails to qualify, the employee shall be separated by the date on which his current Schedule B appointment expires.

SEC. 5. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the purposes of this Order.

LYNDON B. JOHNSON

THE WHITE HOUSE,
March 12, 1965.

[F.R. Doc. 65-2731; Filed, Mar. 12, 1965; 4:03 p.m.]

Executive Order 11204

INSPECTION OF INCOME, ESTATE, AND GIFT TAX RETURNS BY THE COMMITTEE ON PUBLIC WORKS, HOUSE OF REPRESENTATIVES

By virtue of the authority vested in me by section 6103(a) of the Internal Revenue Code of 1954, as amended (68A Stat. 753; 26 U.S.C. 6103(a)), it is hereby ordered that any income, estate, or gift tax return for the years 1957 to 1965, inclusive, shall, during the Eighty-ninth Congress, be open to inspection by the Committee on Public Works, House of Representatives, or any duly authorized subcommittee thereof, in connection with its investigation of the policies, procedures and practices involved in the administration of the Federal-Aid Highway Program, pursuant to House Resolution 141, 89th Congress, agreed to February 16, 1965. Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decision 6132, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

LYNDON B. JOHNSON

THE WHITE HOUSE,
March 12, 1965.

[F.R. Doc. 65-2741; Filed, Mar. 15, 1965; 9:55 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

[Lemon Reg. 151, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), 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 amendment 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1) (i) and (ii) of § 910.451 (Lemon Regulation 51, 30 F.R. 2924) are hereby amended to read as follows:

§ 910.451 Lemon Regulation 151.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 16,740 cartons;

(ii) District 2: 241,800 cartons.

* * * * *

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

Dated: March 11, 1965.

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

[F.R. Doc. 65-2650; Filed, Mar. 15, 1965; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 6510; Amdt. 39-48]

PART 39—AIRWORTHINESS DIRECTIVES

Aero Commander Models L-3805, 500, 500A, 500B, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680F(P), 680FL, 680FL(P), AND 720 Aircraft

Amendment 827, 29 F.R. 14661, AD 64-24-1, requires inspection and modification of the lower front spar caps on Aero Commander Models 560F, 680, 680E, 680F, and 680FL aircraft equipped with a magnetometer installation. Since the issuance of Amendment 827, there have been four failures of lower front spar caps of Aero Commander aircraft that have never been equipped with a magnetometer installation. Since this unsafe condition is likely to exist or develop in other products of the same type design, an airworthiness directive is being issued superseding Amendment 827 requiring inspection, repair if cracks are found, and modification if no cracks are found on specified models of Aero Commander aircraft.

As a situation exists which demands immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 (14 CFR Part 39), is hereby amended by adding the following new airworthiness directive:

AERO COMMANDER. Applies to Models L-3805, 500, 500A, 500B, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680F(P), 680FL, 680FL(P), and 720 aircraft that have not been reinforced in accordance with Aero Commander Service Change No. 81 or 81A.

Compliance required as indicated.

To prevent further failures of the wing lower front spar cap, accomplish the following:

(a) Inspect aircraft, Serial Numbers 1 through 1489, 1491, 1492, 1495, and 1500, with less than 1,700 hours' time in service on the effective date of this AD, in accordance with paragraph (e) prior to the accumulation of 2,000 hours' time in service, and—

(1) If cracks are found, comply with paragraph (f) before further flight except that aircraft modified in accordance with Aero Commander Drawing No. 5170023 may be flown in accordance with the provisions of FAR 21.197 to a base where the repair can be made; or

(2) If no cracks are found, comply with paragraph (g) prior to the accumulation of 2,000 hours' time in service.

(b) Inspect aircraft, Serial Numbers 1 through 1260, with 1,700 or more but less than 2,000 hours' time in service on the effective date of this AD, in accordance with paragraph (e) within the next 300 hours' time in service, and—

(1) If cracks are found, comply with paragraph (f) before further flight except that aircraft modified in accordance with Aero Commander Drawing No. 5170023 may be flown in accordance with the provisions of FAR 21.197 to a base where the repair can be made; or

(2) If no cracks are found, comply with paragraph (g) within the next 300 hours' time in service after the effective date of this AD.

(c) Inspect aircraft, Serial Numbers 1 through 1260, with 2,000 or more hours' time in service on the effective date of this AD, in accordance with paragraph (e) within the next 25 hours' time in service unless already accomplished within the last 75 hours' time in service, and—

(1) If cracks are found, comply with paragraph (f) before further flight except that aircraft modified in accordance with Aero Commander Drawing No. 5170023 may be flown in accordance with the provisions of FAR 21.197 to a base where the repair can be made; or

(2) If no cracks are found—

(i) Reinspect in accordance with paragraph (e) at intervals not to exceed 100 hours' time in service from the last inspection until the spar cap is reinforced in accordance with subdivision (ii); and

(ii) Reinforce the spar cap in accordance with Aero Commander Service Change 81A or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Southwest Region, within the next 300 hours' time in service after the effective date of this AD.

(d) Inspect aircraft, Serial Numbers 1261 through 1489, 1491, 1492, 1495, and 1500, with 1,700 or more hours' time in service on the effective date of this AD, in accordance with paragraph (e) within the next 300 hours' time in service, and—

(1) If cracks are found, comply with paragraph (f) before further flight except that aircraft modified in accordance with Aero Commander Drawing No. 5170023 may be flown in accordance with the provisions of FAR 21.197 to a base where the repair can be made; or

(2) If no cracks are found, comply with paragraph (g) within the next 300 hours' time in service after the effective date of this AD.

(e) Inspect the front spar lower cap at Wing Station 24.00 left and right in accordance with Aero Commander Service Bulletin No. 90 dated February 22, 1965.

(f) If cracks are found, repair the spar cap in accordance with Aero Commander Service Department factory-approved repair instructions or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA southwest Region.

(g) If no cracks are found, reinforce the spar cap in accordance with Aero Commander Service Change 81A or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Southwest Region.

(h) Aircraft specified in paragraphs (a), (b), and (d) previously inspected in accordance with Aero Commander Service Bulletin No. 90 need not comply with the inspection provisions of this AD.

(i) Aircraft with lower front spar caps previously repaired as specified in paragraph (f) of this AD need not comply with the repair provisions of this AD.

This supersedes Amendment 827, 29 F.R. 14661, AD 64-24-1.

This amendment shall become effective March 16, 1965.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on March 11, 1965.

C. W. WALKER,
Acting Director,
Flight Standards Service.

[F.R. Doc. 65-1928; Filed, Mar. 15, 1965; 8:45 a.m.]

[Airspace Docket No. 63-SO-90]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Area Extension, Alteration of Control Zones, Designation of Transition Areas, and Revocation of Federal Airway

On January 28, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 889) stating that the Federal Aviation Agency proposed to revoke the control area extension at Montgomery, Ala., alter the control zones at Montgomery and Selma, Ala., and designate transition areas at Montgomery, Selma, and Auburn, Ala. It was also proposed to revoke VOR Federal airway No. 134 between Evergreen and Tuskegee, Ala.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 27, 1965, as hereinafter set forth.

1. In § 71.165 (29 F.R. 17557) the Montgomery, Ala., control area extension is revoked.

2. In § 71.171 (29 F.R. 17581) the following control zones are amended to read:

MONTGOMERY, ALA.

Within a 5-mile radius of Dannelly Field (latitude 32°18'00" N., longitude 86°23'36" W.); within a 5-mile radius of Maxwell AFB (latitude 32°22'48" N., longitude 86°21'55" W.); within 2 miles each side of the Dannelly Field ILS localizer W course extending from the Dannelly Field 5-mile radius zone to 1 mile E of the OM; within 2 miles each side of the Montgomery VORTAC 321° radial extending from the Dannelly Field 5-mile radius zone to 1 mile NW of the VORTAC; within 2 miles each side of the Montgomery VORTAC 321° radial extending from the Dannelly Field 5-mile radius zone to 6 miles NW of Dannelly Field; within 2 miles each side of a 171° bearing from the Prattville, Ala., RBN extending from the Dannelly Field 5-mile radius zone to 10 miles N of the airport; within 2 miles each side of the Maxwell AFB VOR 148° radial extending from the Maxwell AFB 5-mile radius zone to 7 miles NW of Maxwell AFB; within 2 miles each side of the Maxwell AFB TACAN 333° radial extending from the Maxwell AFB 5-mile radius zone to 6.5 miles NW of the TACAN; within 2 miles each side of the Montgomery VORTAC 345° radial extending from the Maxwell AFB 5-mile radius zone to 10 miles S of Maxwell AFB.

SELMA, ALA.

Within a 5-mile radius of Craig AFB (latitude 32°20'31" N., longitude 86°59'22" W.); within 2 miles each side of a 143° bearing from the Selma, Ala., RBN extending from the 5-mile radius zone to the RBN; within 2 miles each side of the Selma VOR 143° radial extending from the 5-mile radius zone to 11 miles SE of the VOR; within 2 miles each side of the Craig AFB TACAN 152° radial extending from the 5-mile radius zone to 7.5 miles SE of the TACAN.

3. In § 71.181 (29 F.R. 17643) the following transition areas are added:

MONTGOMERY, ALA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Dannelly Field (latitude 32°18'00" N., longitude 86°23'36" W.); within an 8-mile radius of Maxwell AFB (latitude 32°22'48" N., longitude 86°21'55" W.); within 8 miles S and 5 miles N of the Dannelly Field ILS localizer W course extending from the airport to 12 miles W of the OM; within 2 miles each side of the Maxwell AFB VOR 148° radial extending from the Maxwell AFB 8-mile radius area to the VOR; within 2 miles each side of a 269° bearing from the Dannelly Field LOM extending from the LOM to the intersection of Selma VOR 101° radial and Evergreen, Ala., VOR 029° radial; excluding the portion which coincides with the Selma, Ala., transition area; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the intersection of the W boundary of V-7 and the S boundary of V-66 extending eastward along V-66 to longitude 86°00'00" W., thence S along longitude 86°00'00" W. to the western boundary of V-20N, thence SE to latitude 32°30'00" N., longitude 85°29'00" W., thence S along longitude 85°29'00" W. to the northern boundary of V-70, thence westward along the northern boundary of V-70 to longitude 87°00'00" W., thence N along longitude 87°00'00" W. to a 35-mile radius arc centered on the Selma, Ala., VOR, thence clockwise along that 35-mile radius arc and a 35-mile radius arc centered on the Selma RBN to the western boundary of V-7, thence N along V-7 to point of beginning; and that airspace extending upward from 6,000 feet above mean sea level bounded on the N by the S boundary of V-154, on the NE by a 35-mile radius arc centered at the Selma, Ala., VOR, on the E by longitude 87°28'00" W., on the S by latitude 31°54'00" N., and on the W by the E boundary of V-209 and a line extending from the intersection of the E boundary of V-209 and a 30-mile radius arc centered on the Meridian, Miss., VORTAC to latitude 32°18'00" N., longitude 88°20'00" W.

SELMA, ALA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Craig AFB (latitude 32°20'31" N., longitude 86°59'32" W.); within a 5-mile radius of Selfield Airport (latitude 32°26'28" N., longitude 86°57'05" W.); within 8 miles each side of the Craig AFB ILS localizer SE course extending from the AFB to 12 miles SE of the OM; within 2 miles each side of a 097° bearing from the Selma RBN extending from the Selfield 5-mile radius area to the RBN.

AUBURN, ALA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Auburn-Opelika Airport (latitude 32°36'55" N., longitude 85°26'10" W.) and within 2 miles each side of the Tuskegee, Ala., VOR 056° radial extending from the 5-mile radius area to the VOR.

4. In § 71.123 (29 F.R. 17509) VOR Federal airway No. 134 is revoked.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on March 4, 1965.

PAUL H. BOATMAN,
Acting Director, Southern Region.

[F.R. Doc. 65-2617; Filed, Mar. 15, 1965; 8:45 a.m.]

[Airspace Docket No. 64-EA-50]

PART 73—SPECIAL USE AIRSPACE

Modification of Restricted Area

On December 29, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 18510) stating that the Federal Aviation Agency was considering an amendment to Part 73 of the Federal Aviation Regulations that would modify Restricted Area R-6606 at Pendleton, Va.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 27, 1965, as hereinafter set forth.

In § 73.66 (29 F.R. 17769), R-6606 at Pendleton, Va., is amended by deleting "*Time of designation.* 0800 to 1700 e.s.t., Monday through Friday," and substituting therefor "*Time of designation.* 0800 to 1700 e.s.t., Monday through Friday, except that portion north of latitude 36°41'42" N., from the surface to 1,000 feet MSL, which is continuous."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on March 9, 1965.

CLIFFORD P. BURTON,
Acting Director,
Air Traffic Service.

[F.R. Doc. 65-2652; Filed, Mar. 15, 1965; 8:47 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-7544]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

General Form for Registration of Securities

The Securities and Exchange Commission has adopted certain amendments to Form 10 (listed and described in 17 CFR 249.210) under the Securities Exchange Act of 1934. This form, as amended, is a general form for registration of securities on a national securities exchange or

pursuant to the recently enacted section 12(g) of the Act.

Notice of the proposed amendments was published December 31, 1964 in Securities Exchange Act Release No. 7493 (30 F.R. 157). A number of helpful comments were received in response to this release and certain changes in the proposed amendments have been made as a result of the consideration of the comments submitted and further consideration of the proposed amendments by the Commission. The principal changes are described below.

The general instructions to the form have been revised to make appropriate references to registration under the new section 12(g) and have been placed at the beginning of the form, instead of following the facing sheet, in order to set them forth more prominently and to avoid interrupting the continuity of the form proper.

In the form the term "registration statement" is used to refer both to an application for registration of securities on a national securities exchange and to a registration statement filed pursuant to section 12(g) of the Act. The general rules and regulations contain a definition of the quoted term which makes its applicability clear.

Eight copies of the registration statement are required to be filed with the Commission. Four copies are to be kept in the Commission's principal office for the use of the staff and for public inspection. The additional copies will be placed in the principal regional offices of the Commission and in the regional office for the region in which the registrant has its principal office. This is intended to make the information contained in the registration statement more readily available to interested persons, in line with recommendations of the Special Study of Securities Markets.

The facing sheet of this form asks for the registrant's I.R.S. employer identification number. The Commission's electronic data processing program requires the use of a single number for each registrant. The I.R.S. number, which is readily available, will provide means whereby all filings made by registrant with the Commission under one or more acts can be readily identified through use of its equipment.

Item 1 of the form has been amended to delete the requirement that the State or other jurisdiction in which the registrant was incorporated or organized be stated, since this information is set forth on the facing page of the registration statement.

Instruction 2 to Item 4 has been amended to clarify the language of that instruction and to change a reference from "the prospectus" to "the registration statement".

Item 9 which calls for the remuneration of officers and directors of the registrant has been amended to clarify the item in certain respects and to provide that the remuneration of individual directors and officers need not be given with respect to persons who cease to be officers and directors prior to the filing of the initial registration statement. The amended item also requires that in stating the aggregate remuneration of all directors and officers as a group, the number of persons in the group shall also be stated.

Item 12 calls for the approximate number of holders of record of each class of equity securities of the registrant. Previously the item called for the number of stockholders of record. In the Form as published for comment, it was proposed to revise Item 12 to require disclosure of the number of shares known by the registrant to be held for the account of customers in the names of brokers. After consideration of the comments received the Commission has decided not to require disclosure of this information.

The proposed amendments to Form 10 as published for comment contained a proposed amendment to Item 13, which calls for information regarding the interest of management and others in certain transactions, to conform the item to the proposed amendment of the corresponding item to the proxy rules. The Commission has determined to defer amending Item 13 to a later date in order to permit further study of the problems involved.

The facing sheet and certain other portions of the form proper have been amended to contain appropriate references to registration under section 12(g) of the Act and to certain rules under the Act.

The Instructions as to Exhibits have been amended to require the filing of material contracts and material patents in accordance with the amended provisions of the Act. The requirements with respect to such contracts and patents are substantially the same as those contained in Form S–1 (listed and described in 17 CFR 239.11) under the Securities Act of 1933.

Commission action. The Securities and Exchange Commission, acting pursuant to sections 12 and 23(a) of the Securities Exchange Act of 1934, as amended, hereby amends Form 10 (listed and described in 17 CFR 249.210) to read as set forth below. The amended form is applicable to registration statements filed on or after April 5, 1965, provided that any issuer desiring, or required, to file a report on Form 10 prior to such date may file such statement on the amended form.

By the Commission, March 5, 1965.

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

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

This form shall be used for registration pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934 of classes of securities of issuers for which no other form is prescribed.

GENERAL INSTRUCTIONS

A. *Rule as to Use of Form 10.*[1]

Form 10 shall be used for registration pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934 of classes of securities of issuers for which no other form is prescribed.

B. *Application of General Rules and Regulations.*

(a) The General Rules and Regulations under the Act contain certain general requirements which are applicable to registration on any form. These general requirements should be carefully read and observed in the preparation and filing of registration statements on this form.

(b) Particular attention is directed to Regulation 12B (17 CFR 240.12b–1 to 240.12b–36) which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the registration statement, the information to be given whenever the title of securities is required to be stated, and the filing of the registration statement. The definitions contained in Rule 12b–2 (17 CFR 240.12b–2) should be especially noted.

C. *Preparation of Registration Statement.*

(a) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the registration statement on paper meeting the requirements of Rule 12b–12 (17 CFR 240.12b–12). The registration statement shall contain the item numbers and captions, but the text of the items may be omitted provided the answers thereto are prepared in the manner specified in Rule 12b–13 (17 CFR 240.12b–13).

(b) Unless otherwise stated, the information required shall be given as of a date reasonably close to the date of filing the registration statement.

D. *Signature and Filing of Registration Statements.*

Eight complete copies of the registration statement on this form, including exhibits and all 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 registration is applied for. At least one of the copies of each statement filed with the Commission and one copy filed with each such exchange shall be manually signed. Unsigned copies shall be conformed.

E. *Disclosure with Respect to Foreign Subsidiaries.*

Information required by any item or other requirement of this form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant, provided a statement is made that such information has been omitted. In such case, a statement of the names of the subsidiaries omitted shall be separately furnished. The Commission may, in its discretion, call for justification that the required disclosure would be detrimental.

F. *Incorporation of Information Contained in a Prospectus.*

Any registrant which has filed with the Commission pursuant to Rule 424 (17 CFR 230.424) under the Securities Act of 1933 copies of a prospectus meeting the requirements of section 10(a) of that Act after the effective date of the registration statement under that Act may, subject to Rule 24 (17

[1] Form 10, as amended Mar. 5, 1965, is applicable to registratoin statements filed on or after Apr. 5, 1965 (See Securities Exchange Act Release No. 7544).

CFR 201.24) of the Commission's Rules of Practice and Rule 12b-36 (17 CFR 240.12b-36), incorporate by reference in a registration statement on this form any information, including financial statements, contained in the prospectus, provided a copy of the prospectus is filed as an exhibit to the registration statement on this form.

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10

GENERAL FORM FOR REGISTRATION OF SECURITIES

PURSUANT TO SECTION 12 (b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address of principal executive offices)

(Zip Code)

SECURITIES TO BE REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT

Title of each class to be so registered

Name of each exchange on which each class is to be registered

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SECURITIES TO BE REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT

(Title of class)

(Title of class)

INFORMATION REQUIRED IN REGISTRATION STATEMENT

Item 1. General Information.

State the year in which the registrant was organized and its form of organization (such as "A corporation," "An unincorporated association" or other appropriate statement).

Item 2. Parents and Subsidiaries of Registrant.

(a) List all parents of the registrant showing the basis of control and, as to each parent, the percentage of voting securities owned or other basis of control by its immediate parent, if any.

(b) Furnish a list or diagram of all subsidiaries of the registrant and as to each subsidiary indicate (1) the State or other jurisdiction under the laws of which it was organized, and (2) the percentage of voting securities owned or other basis of control by its immediate parent. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in consolidated financial statements; (iii) subsidiaries included in group financial statements filed for unconsolidated subsidiaries; and (iv) subsidiaries for which no financial statements are filed, indicating briefly why statements of such subsidiaries are not filed.

Instructions. 1. Include the registrant and show clearly the relationship of each person named to the registrant and the other persons named, including the percentage of voting securities of the registrant owned or other basis of control by its immediate parent. The names of particular subsidiaries may be omitted if the unnamed subsidiaries considered in the aggregate as a single subsidiary would not constitute a significant subsidiary.

2. In case any parent is a resident of, or a corporation or other organization formed under the laws of, any foreign country, give the name of such country for each foreign parent, and, if it is a corporation or other organization, state briefly the nature of the organization.

3. If the securities to be registered are to be issued in connection with, or pursuant to, a plan of reorganization, readjustment or succession, indicate, insofar as practicable, the status to exist upon consummation of the plan.

4. In case the registrant owns, directly or indirectly, approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person are owned directly or indirectly by another single interest, such person shall be deemed to be a subsidiary for purposes of this item.

Item 3. Description of Business.

(a) Briefly describe the business done and intended to be done by the registrant and its subsidiaries and the general development of such business during the past five years. If the business consists of the production or distribution of different kinds of products or the rendering of different kinds of services, indicate, insofar as practicable, the relative importance of each product or service or class of similar products or services which contributed 15 percent or more to the gross volume of business done during the last fiscal year.

Instructions. 1. The description shall not relate to the powers and objects specified in the charter, but to the actual business done and intended to be done. Include the business of subsidiaries of the registrant only insofar as is necessary to understand the character and development of the business conducted by the total enterprise.

2. In describing developments, information shall be given as to matters such as the following: The nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other materially important reorganization, readjustment or succession of the registrant or any of its significant subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; any materially important changes in the types of products produced or services rendered by the registrant and its subsidiaries; and any materially important changes in the mode of conducting the business, such as fundamental changes in the methods of distribution.

(b) Indicate briefly, to the extent material, the general competitive conditions in the industry in which the registrant and its subsidiaries are engaged or intend to engage, and the position of the enterprise in the industry. If several products or services are involved, separate consideration should be given to the principal products or services or class of products or services.

Item 4. Description of Property.

State briefly the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. If any such property is not held in fee or is held subject to any major encumbrance, so state and briefly describe how held.

Instructions. 1. What is required is information essential to an investor's appraisal of the securities to be registered. Such information should be furnished as will reasonably inform investors as to the suitability, adequacy, productive capacity and extent of utilization of the facilities used in the enterprise. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and should not be given.

2. In the case of an extractive enterprise, material information shall be given as to production, reserves, locations, development and the nature of the registrant's interest. Where individual properties are of major significance to the enterprise (i) more detailed information concerning these matters shall be furnished, including the results of development and significant geological structures and formations, where appropriate, and (ii) appropriate maps shall be used to disclose location data of significant properties, except where numerous maps would be required. Where the report of an engineer or other expert is referred to in the registration statement, a copy of the full report shall be furnished as supplemental information but not as a part of the registration statement.

Item 5. Organization Within Five Years.

If the registrant was organized within the past five years, furnish the following information:

(a) State the names of the promoters, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter directly or indirectly from the registrant, and the nature and amount of any assets, services or other consideration therefor received or to be received by the registrant. The term "promoter" is defined in Rule 12b-2.

(b) As to any assets acquired or to be acquired by the registrant from a promoter, state the amount at which acquired or to be acquired and the principle followed or to be followed in determining the amount. Identify the persons making the determination and state their relationship, if any, with the registrant or any promoter. If the assets were acquired by the promoter within two years prior to their transfer to the registrant, state the cost thereof to the promoter.

Item 6. Pending Legal Proceedings.

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings were instituted, the date instituted and the principal parties thereto. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. 1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 15 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described. Any material proceedings to which any director, officer or affiliate of the registrant, any security holder named in answer to Item 11(a), or any associate of any such director, officer or security holder, is a party, or has an interest, adverse to the registrant or any of its subsidiaries shall also be described.

Item 7. Directors and Officers.

List the names of all directors and executive officers of the registrant and all persons chosen to become directors or executive officers. Indicate all positions and offices with the registrant held by each person named, and the principal occupations during the past five years of each executive officer and each person chosen to become an executive officer.

Instructions. 1. If any person chosen to become a director or executive officer has not consented to act as such, so state.

2. For the purpose of this item, the term "executive officer" means the president, vice president, secretary and treasurer, and any other officer who performs similar policy-making functions for the registrant.

Item 8. Indemnification of Directors and Officers.

State the general effect of any charter provision, bylaw, contract, arrangement or statute under which any director or officer of the registrant is insured or indemnified in any manner against any liability which he may incur in his capacity as such.

Item 9. Remuneration of Directors and Officers.

(a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to the following persons for services in all capacities:

(1) Each director of the registrant whose aggregate direct remuneration exceeded $30,000 and each of the three highest paid officers of the registrant whose aggregate direct remuneration exceeded that amount, naming each such director and officer.

(2) All directors and officers of the registrant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Capacities in which remuneration was received	(C) Aggregate direct remuneration

Instructions. 1. Except as provided in Instruction 2, paragraph (a)(1) of this item applies to any person who was a director or officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the registrant.

2. In the first registration statement filed on this form for the registration of a class of securities of an issuer pursuant to section 12 of the Act, this item does not apply to any person who is not a director or officer of the issuer at the time the statement is filed, provided the same information is not otherwise required to be disclosed in any other material filed with the Commission.

3. The information is to be given on an accrual basis if practicable. The tables required by this paragraph and paragraph (b) may be combined if the registrant so desires.

4. Do not include remuneration paid to a partnership in which any director or officer was a partner, but see Item 13.

5. If the registrant has not completed a full fiscal year since its organization or if it acquired or is to acquire the majority of its assets from a predecessor within the current fiscal year, the information shall be given for the current fiscal year, estimating future payments, if necessary. To the extent that such remuneration is to be computed upon the basis of a percentage of profits, it will suffice to state such percentage without estimating the amount of such profits to be paid.

6. If any part of the remuneration shown in response to this item was paid pursuant to a material bonus or profit-sharing plan, briefly describe the plan and the basis upon which directors or officers participate therein. See Instruction 1 to paragraph (b) for the meaning of the term "plan."

(b) Furnish the following information, in substantially the tabular form indicated below, as to all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the registrant or any of is subsidiaries to each director or officer named in answer to paragraph (a)(1) above:

(A) Name of individual	(B) Amounts set aside or accrued during registrant's last fiscal year	(C) Estimated annual benefits upon retirement

Instructions. 1. The term "plan" in this item includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to amounts computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

3. The information called for by Column (C) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings of the registrant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported under paragraph (a) or (b) of this item) proposed to be made in the future, directly or indirectly, by the registrant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a)(1), naming each such person, and (ii) all directors and officers of the registrant as a group, without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments should be stated, together with an explanation of the basis for future payments.

Item 10. Options To Purchase Securities.

Furnish the following information as to options to purchase securities from the registrant or any of its subsidiaries, which are outstanding as of a specified date within 30 days prior to the date of filing.

(a) Describe the options, stating the material provisions including the consideration received and to be received for such options by the grantor thereof and the market value of the securities called for on the granting date. If, however, the options are "qualified stock options" or "restricted stock options" or options granted pursuant to a plan qualified as an "employee stock purchase plan," as those terms are defined in sections 422 through 424 of the Internal Revenue Code of 1954, as amended, only the following is required: (i) A statement to that effect, (ii) a brief description of the terms and conditions of the options or of the plan pursuant to which they were issued, and (iii) a statement of the provisions of the plan or options with respect to the relationship between the option price and the market price of the securities at the date when the options were granted, or with respect to the terms of any variable price options.

(b) State (i) the title and amount of the securities called for by such options; (ii) the purchase prices of the securities called for and the expiration dates of such options; and (iii) the market value of the securities called for by such options as of the latest practicable date.

Instruction. In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and dates. If this produces more than five separate groups then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

(c) Furnish separately the information called for by paragraph (b) above for all options held by (i) each director or officer named in answer to paragraph (a)(1) of Item 9 naming each such person, and (ii) all directors and officers as a group without naming them.

Instructions. 1. The term "options" as used in this item includes all options, warrants and rights other than those issued to security holders as such on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. Where the total market value of securities called for by all outstanding options as of the specified date referred to in this item does not exceed $10,000 for any officer or director named in answer to paragraph (a)(1) of Item 9, or $30,000 for all officers and directors as a group, or for all option holders as a group, this item need not be answered with respect to options held by such person or group.

Item 11. Principal Holders of Securities.

Furnish the following information as of a specified date within 90 days prior to the date of filing in substantially the tabular form indicated:

(a) As to the voting securities of the registrant owned of record or beneficially by each person who owns of record, or is known by the registrant to own beneficially, more than 10 percent of any class of such securities. Show in Column (3) whether the securities are owned both of record and beneficially, of record only, or beneficially only, and show in Columns (4) and (5) the respective amounts and percentages owned in each such manner:

(1) Title of class	(2) Amount beneficially owned	(3) Percent of class

(b) As to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned directly or indi-

rectly by all directors and officers of the registrant, as a group, without naming them.

(1) Name and address	(2) Title of class	(3) Type of ownership	(4) Amount owned	(5) Percent class

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the issuer. In any case where the amount owned by directors and officers as a group is less than 1 percent of the class, the percent of the class owned by them may be omitted.

2. If, to the knowledge of the registrant, more than 10 percent of any class of voting securities of the registrant are held or to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

Item 12. Number of Equity Security Holders.

State in the tabular form indicated below, as of a specified date, the approximate number of holders of record of each class of equity securities of the registrant.

(1) Title of class	(2) Number of record holders

Instructions. 1. Attention is directed to the definition of the term "equity security" in section 3(a)(11) of the Act.

2. The information shall be given as of the end of the last fiscal year or as of any subsequent date, except that if the latest determination of the number of record holders of any class of equity securities was made for some other purpose within 90 days prior to the end of the last fiscal year, the information with respect to such class may be given as of the date of such determination.

Item 13. Interest of Management and Others in Certain Transactions.

Describe briefly, and where practicable state the approximate amount of any material interest, direct or indirect, of any of the following persons in any material transactions during the last three years, or in any material proposed transactions, to which the registrant or any of its subsidiaries was, or is to be, a party:

(a) Any director or officer of the registrant;

(b) Any security holder named in answer to Item 11(a); or

(c) Any associate of any of the foregoing persons.

Instructions. 1. See Instruction 1 to Item 9(a). Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

2. As to any transaction involving the purchase or sale of assets by or to the registrant or any subsidiary, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within two years prior to the transaction.

3. This item does not apply to any interest arising from the ownership of securities of the registrant where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

4. No information need be given in answer to this item as to any remuneration not received during the registrant's last fiscal year or as to any remuneration or other transaction reported in response to Item 9 or 10.

5. Information should be included as to any material underwriting discounts and commissions upon the sale of securities by the registrant where any of the specified persons was or is to be a principal underwriter or is a controlling person or member of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the registrant or its subsidiaries.

6. No information need be given in answer to this item as to any transaction or any interest therein where:

(i) The rates or charges involved in the transaction are fixed by law or determined by competitive bids;

(ii) The interest of the specified persons in the transaction is solely that of a director of another corporation which is a party to the transaction;

(iii) The transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or other similar services;

(iv) The interest of the specified persons, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $30,000;

(v) The transaction does not involve remuneration for services, directly or indirectly, and (A) the interest of the specified persons arises from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation which is a party to the transaction, (B) the transaction is in the ordinary course of business of the registrant or its subsidiaries, and (C) the amount of such transaction or series of transactions is less than 10 percent of the total sales or purchases, as the case may be, of the registrant and its subsidiaries.

7. Information shall be furnished in answer to this item with respect to transactions not excluded above which involve remuneration, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

8. This item does not require the disclosure of any interest in any transaction unless such interest and transaction are material.

Item 14. Capital Stock to be Registered.

If capital stock is to be registered, state the title of the class and furnish the following information:

(a) Outline briefly (1) dividend rights; (2) voting rights; (3) liquidation rights; (4) pre-emptive rights; (5) conversion rights; (6) redemption provisions; (7) sinking fund provisions; and (8) liability to further calls or to assessment by the registrant.

(b) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(c) Outline briefly any restriction on the repurchase or redemption of shares by the registrant while there is any arrearage in the payment of the dividends or sinking fund installments. If there is no such restriction, so state.

Instructions. 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the securities to be registered are materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other document, include such information regarding such limitation or qualification as will enable investors to understand the rights evidenced by the securities to be registered.

3. If any securities to be registered are to be offered in exchange for other securities, an appropriate description of such other securities shall be given. No information need be given, however, as to any class of securities all of which will be redeemed and retired, provided appropriate steps to assure such redemption and retirement will be taken prior to registration of the securities to be registered.

Item 15. Long-Term Debt To Be Registered.

If long-term debt is to be registered, outline briefly such of the following as are relevant:

(a) Provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund or retirement.

(b) Provisions with respect to the kind and priority of any lien, securing the issue, together with a brief identification of the principal properties subject to such lien.

(c) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(d) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

Instruction. Provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance moneys, and similar provisions, need not be described.

(e) The name of the trustee and the nature of any material relationship with the registrant or any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

Instruction. The instructions to Item 14 shall also apply to this item.

Item 16. Other Securities To Be Registered.

If securities other than capital stock or long-term debt are to be registered, outline briefly the rights evidenced thereby. If subscription warrants or rights are to be registered, state the title and amount of securities called for, the period during which and the price at which the warrants or rights are exercisable.

Instruction. The instructions to Item 14 shall also apply to this item.

Item 17. Recent Sales of Unregistered Securities.

Furnish the following information as to all securities of the registrant sold by the registrant within the past three years, or presently proposed to be sold, which were not, or are not to be, registered under the Securities Act of 1933. Include sales of reacquired securities as well as new issues, securities issued in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities.

(a) Give the date of sale and the title and amount of securities sold.

(b) Give the names of the principal underwriters, if any. As to any securities sold privately, name the persons or identify the class of persons to whom the securities were sold.

(c) As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts or commissions. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the registrant.

(d) Give a reasonably itemized statement of the purposes, so far as determinable, for which the net proceeds have been or are to be used and the approximate amount to be used for each purpose.

(e) Indicate the section of the Act or the Rule of the Commission under which exemption from registration was claimed and state briefly the facts relied upon to make the exemption available.

Instructions. 1. Information need not be set forth as to notes, drafts, bills of exchange or bankers' acceptances which mature not later than one year from the date of issuance.

2. If the sales were made in a series of transactions, the information may be given by such totals and periods as will reasonably convey the information required.

Item 18. Financial Statements and Exhibits.

List all financial statements and exhibits filed as a part of the registration statement.

(a) Financial statements.

(b) Exhibits.

SIGNATURES

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

_____
(Registrant)

By _____
(Signature) *

Date _____

*Print the name and title of the signing officer under his signature.

INSTRUCTIONS AS TO FINANCIAL STATEMENTS

These instructions specify the balance sheets and profit and loss statements required to be filed as a part of an application on this form. Regulation S-X (17 CFR Part 210) governs the certification, form and content of the balance sheets and profit and loss statements required, including the basis of consolidation, and prescribes the statements of surplus and schedules to be filed in support thereof. Attention is directed to Rule 12b-23(b) (17 CFR 240.12b-23(b)) and 12b-36 (17 CFR 240.12b-36).

A. STATEMENTS OF THE REGISTRANT

1. *Balance Sheets of the Registrant.*

(a) The registrant shall file a certified balance sheet as of the close of its latest fiscal year unless such fiscal year has ended within 90 days prior to the date of filing the registration statement, in which case the balance sheet may be as of the close of the preceding fiscal year.

(b) If the latest fiscal year of the registrant has ended within 90 days prior to the date of filing the registration statement and the balance sheet required by paragraph (a) is filed as of the end of the preceding fiscal year, there shall be filed as an amendment to the registration statement, within 120 days after the date of filing, a certified balance sheet of the registrant as of the end of the latest fiscal year.

2. *Profit and Loss Statements of the Registrant.*

(a) The registrant shall file certified profit and loss statements for each of the three fiscal years preceding the date of the balance sheet required by Instruction 1(a).

(b) There shall be filed with each balance sheet filed pursuant to Instruction 1(b) a certified profit and loss statement of the registrant for the fiscal year immediately preceding the date of the balance sheet.

3. *Omission of Registrant's Statements in Certain Cases.*

Notwithstanding Instructions 1 and 2, the individual financial statements of the registrant may be omitted if (1) consolidated statements of the registrant and one or more of its subsidiaries are filed, and (2) the conditions specified in either of the following paragraphs are met.

(a) The registrant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally held subsidiaries; or

(b) The registrant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85 percent or more of the total assets shown by the consolidated balance sheets filed and the registrant's total gross revenues for the period for which its profit and loss statements would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85 percent or more of the total gross revenue shown by the consolidated profit and loss statements filed.

B. CONSOLIDATED STATEMENTS

4. *Consolidated Balance Sheets.*

(a) There shall be filed a certified consolidated balance sheet of the registrant and its subsidiaries as of the close of the latest fiscal year of the registrant, unless such fiscal year has ended within 90 days prior to the date of filing the registration statement, in which case this balance sheet may be as of the close of the preceding fiscal year.

(b) If the latest fiscal year of the registrant has ended within 90 days prior to the date of filing the registration statement, and the balance sheet required by paragraph (a) is filed as of the end of the preceding fiscal year, there shall be filed as an amendment to the registration statement, within 120 days after the date of filing, a certified consolidated balance sheet of the registrant and its subsidiaries as of the end of the latest fiscal year.

5. *Consolidated Profit and Loss Statement.*

(a) There shall be filed certified consolidated profit and loss statements of the registrant and its subsidiaries for each of the three fiscal years preceding the date of the consolidated balance sheet required by Instruction 4(a).

(b) There shall be filed with each balance sheet filed pursuant to Instruction 4(b) a certified consolidated profit and loss statement of the registrant and its subsidiaries for the fiscal year immediately preceding the date of the balance sheet.

C. UNCONSOLIDATED SUBSIDIARIES AND OTHER PERSONS

6. *Unconsolidated Subsidiaries.*

(a) Subject to Rule 4-03 of Regulation S-X (§ 210.4-03) regarding group statements of unconsolidated subsidiaries, there shall be filed for each majority-owned subsidiary of the registrant not consolidated the balance sheets and profit and loss statements which would be required if the subsidiary were itself a registrant. Insofar as practicable, these balance sheets and profit and loss statements shall be as of the same dates or for the same periods as those of the registrant.

(b) If the fiscal year of any unconsolidated subsidiary ends within 90 days before the date of filing the registration statement, or ends after the date of filing, the financial statements of the subsidiary may be filed as an amendment to the registration statement within 120 days after the end of the subsidiary's fiscal year.

7. *Fifty-percent Owned Persons.*

If the registrant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned directly or indirectly by another single interest, there shall be filed for each such person the financial statements which would be required if it were a registrant. The statements filed for each such person shall identify the other single interest.

8. *Omission of Statements Required by Instructions 6 and 7.*

Notwithstanding Instructions 6 and 7, there may be omitted from the registration statement all financial statements of any one or more unconsolidated subsidiaries or 50 percent owned persons if all such subsidiaries and 50 percent owned persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

9. *Affiliates Whose Securities Secure an Issue Being Registered.*

(a) For each affiliate, securities of which constitute or are to constitute a substantial portion of the collateral securing any class of securities to be registered, there shall be filed the financial statements that would be required if the affiliate were a registrant.

(b) For the purposes of this instruction, securities of a person shall be deemed to constitute a substantial portion of the collateral if the aggregate principal amount, par value, or book value as shown by the books of the registrant, or market value, whichever is the greatest, of such securities equals 20 percent or more of the principal amount of the class secured thereby.

D. Special Provisions

10. *Reorganization of Registrant.*

(a) If during the period for which its profit and loss statements are required the registrant has emerged from a reorganization in which substantial changes occurred in its asset, liability, capital stock, surplus or reserve accounts, a brief explanation of such changes shall be set forth in a note or supporting schedule to the balance sheets filed.

(b) If the registrant is about to emerge from such a reorganization, there shall be filed, in addition to the balance sheets of the registrant otherwise required, a balance sheet giving effect to the plan of reorganization. These balance sheets shall be set forth in such form, preferably columnar, as will show in related manner the balance sheet of the registrant prior to the reorganization, the changes to be effected in the reorganization and the balance sheet of the registrant after giving effect to the plan of reorganization. By a footnote or otherwise a brief explanation of the changes shall be given.

11. *Succession to Other Businesses.*

(a) If during the period for which its profit and loss statements are required, the registrant has by merger, consolidation or otherwise succeeded to one or more businesses, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the balance sheets filed. In addition, profit and loss statements for each constituent business, or combined statements if appropriate, shall be filed for such period prior to the succession as may be necessary when added to the time, if any, for which profit and loss statements after the succession are filed to cover the equivalent of the period specified in Instructions 2 and 5 above.

(b) If the registrant by merger, consolidation or otherwise is about to succeed to one or more businesses, there shall be filed for the constituent businesses financial statements, combined if appropriate, which would be required if they were registering securities under the Act. In addition, there shall be filed a balance sheet of the registrant giving effect to the plan of succession. These balance sheets shall be set forth in such form, preferably columnar, as will show in related manner the balance sheets of the constituent businesses, the changes to be effected in the succession and the balance sheet of the registrant after giving effect to the plan of succession. By a footnote or otherwise, a brief explanation of the changes shall be given.

(c) This instruction shall not apply with respect to the registrant's succession to the business of any totally-held subsidiary or to any acquisition of a business by purchase.

12. *Acquisition of Other Businesses.*

(a) There shall be filed for any business directly or indirectly acquired by the registrant after the date of the balance sheet filed pursuant to Part A or B above and for any business to be directly or indirectly acquired by the registrant, the financial statements which would be required if such business were a registrant.

(b) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control. In addition, the acquisition or securities which will extend the registrant's control of a business shall be deemed the acquisition of the business if any of the securities to be registered hereunder are to be offered in exchange for the securities to be acquired.

(c) No financial statements need be filed, however, for any business acquired or to be acquired from a totally-held subsidiary. In addition, the statements of any one or more businesses may be omitted if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

13. *Statements of Banks and Insurance Companies.*

Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks or insurance companies (other than title insurance companies) need not be certified.

14. *Registrants Not in the Production Stage.*

Notwithstanding the foregoing instructions, if the registrant falls within the terms of paragraph (b) or (c) of Rule 5A-01 of Regulation S-X (§ 210.5a-01), the following statements, all of which shall be certified, shall be filed for the registrant and each of its significant subsidiaries, if any:

(a) The statements specified in Rules 5A-02, 5A-03, 5A-04, 5A-05, and 5A-07 (§§ 210.5a-02, 210.5a-03, 210.5a-04, 210.5a-05 and 210.5a-07) shall be filed as of the end of the registrant's latest fiscal year unless such fiscal year has ended within 90 days prior to the date of filing the registration statement, in which case such statements may be as of the close of the preceding fiscal year.

(b) If the latest fiscal year of the registrant has ended within 90 days prior to the date of filing the registration statement and the statements required by paragraph (a) are filed as of the end of the preceding fiscal year, statements as of the end of the latest fiscal year shall be filed as an amendment to the registration statement within 120 days after the date of filing the registration statement.

(c) The statement of cash receipts and disbursements specified in Rule 5A-06 (§ 210.5a-06) shall be filed for each of the three fiscal years preceding the date of the statements required by paragraph (a) above, and for the fiscal year immediately preceding the date of any statements filed pursuant to paragraph (b).

15. *Filing of Other Statements in Certain Cases.*

The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Commission may also require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

E. Historical Financial Information

16. *Scope of Part E.*

The information required by Part E shall be furnished for the seven-year period preceding the period for which profit and loss statements are filed, as to the accounts of each person whose balance sheet is filed. The information is to be given as to all of the accounts specified whether they are presently carried on the books or not. Part E does not call for an audit, but only for a survey or review of the accounts specified. It should not be detailed beyond a point material to an investor. Information may be omitted, however, as to any person for whom equivalent information for the period has been filed with the Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934.

17. *Revaluation of Property.*

(a) If there were any material increases or decreases in investments, in property, plant and equipment, or in intangible assets, resulting from revaluing such assets, state (1) in what year or years such revaluations were made; (2) the amounts of such increases or decreases, and the accounts affected, including all related entries; and (3) if in connection with such revaluations any related adjustments were made in reserve accounts, state the accounts and amounts with explanations.

(b) Information is not required as to adjustments made in the ordinary course of business, but only as to major revaluations made for the purpose of entering the books current values, reproduction cost or any values other than original cost.

(c) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect to the reversal of a revaluation entry recorded prior to the period if a statement as to the reversal is made.

18. *Capital Shares.*

(a) If there were any material restatements of capital shares which resulted in transfers from capital share liability to surplus or reserve, state the amount of each such restatement and all related entries. No statement need be made as to restatements resulting from the declaration of share dividends.

(b) If there was an original issue of capital shares, any part of the proceeds of which was credited to accounts other than capital share accounts, state the title of the class, the accounts and the respective amounts credited thereto.

19. *Debt Discount and Expense Written off.*

If any material amount of debt discount and expense, on long-term debt still outstanding, was written off earlier than as required under any periodic

amortization plan, give the following information: (1) title of the securities, (2) date of the write-off, (3) amount written off, and (4) to what account charged.

20. *Premiums and Discount and Expense on Securities Retired.*

If any material amount of long-term debt or preferred shares was retired, and if either the retirement was made at a premium or there remained, at the time of retirement, a material amount of unamortized discount and expense applicable to the securities retired, state for each class (1) title of the securities retired, (2) date of retirement, (3) amount of premium paid and of unamortized discount and expense, (4) to what account charged, and (5) whether being amortized and, if so, the plan of amortization.

21. *Other Changes in Surplus.*

If there were any material increases or decreases in surplus, other than those resulting from transactions specified above, the closing of the profit and loss account or the declaration or payment of dividends, state (1) the year or years in which such increases or decreases were made; (2) the nature and amounts thereof; and (3) the accounts affected, including all material related entries. Instruction 17(c) above shall also apply here.

22. *Predecessors.*

The information shall be furnished, to the extent it is material, as to any predecessor of the registrant from the beginning of the period to the date of succession, not only as to the entries made respectively in the books of the predecessor or the successor, but also as to the changes effected in the transfer of the assets from the predecessor. However, no information need be furnished as to any one or more predecessors which, considered in the aggregate, would not constitute a significant predecessor.

23. *Omission of Certain Information.*

(a) No information need be furnished as to any subsidiary, whether consolidated or unconsolidated, for the period prior to the date on which the subsidiary became a majority-owned subsidiary of the registrant or of a predecessor for which information is required above.

(b) No information need be furnished hereunder as to any one or more unconsolidated subsidiaries for which separate financial statements are filed if all subsidiaries for which the information is so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(c) Only the information specified in Instruction 17 need be given as to any predecessor or any subsidiary thereof if immediately prior to the date of succession thereto by a person for which information is required, the predecessor or subsidiary was in insolvency proceedings.

INSTRUCTIONS AS TO EXHIBITS

Subject to Rule 12b–32 (17 CFR 240.12b–32) regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the registration statement. Such exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may be referred to by the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for under Item 18.

1. Copies of the charter and bylaws or instruments corresponding thereto as presently in effect.

2. Copies of any plan of acquisition, reorganization, readjustment, or succession described in answer to Items 3, 6 or, 17.

3. (a) Specimens or copies of all securities to be registered hereunder, and copies of all constituent instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(b) There need not be filed, however, (1) any instrument with respect to long-term debt not to be registered hereunder if the total amount of securities authorized thereunder does not exceed 5 percent of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such instrument to the Commission upon request, (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities to be registered, or (3) copies of instruments evidencing scrip certificates for fractions of shares.

4. Copies of all pension, retirement or other deferred compensation plans, contracts or arrangements. If any such plan, contract or arrangement is not set forth in a formal document, furnish a reasonably detailed description thereof. Copies of any available booklet or other written description of any such plan, contract or arrangement shall also be filed.

5. Copies of any plan setting forth the terms and condition upon which outstanding options, warrants or rights to purchase securities of the registrant or its subsidiaries from the registrant or its affiliates have been issued, together with specimen copies of such options, warrants or rights; or, if they were not issued pursuant to such a plan, copies of each such option, warrant or right.

6. Copies of any voting trust agreement referred to in answer to Item 11.

7. If any discount on capital shares is shown as a deduction from capital shares on the balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

8. If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

9. (a) Copies of every material contract not made in the ordinary course of business which is to be performed in whole or in part at or after the filing of the registration statement or which was made not more than two years before such filing. Only contracts need be filed as to which the registrant or a subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment, or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Directors, officers, promoters, voting trustees, or security holders named in answer to Item 11(a) are parties thereto except where the contract merely involves purchase or sale of current assets having a determinable market price, at such price;

(2) It is of such materiality as to call for specific reference to it in answer to Item 3, 4, or 13;

(3) The registrant's business is substantially dependent upon it, as in the case of continuing contracts to sell the major part of registrant's production in the case of a manufacturing enterprise or to purchase the major part of registrant's requirements of goods in the case of a distribution enterprise, or licenses to use a patent or formula upon which registrant's business depends to a material extent;

(4) It calls for the acquisition or sale of fixed assets for a consideration exceeding 10 percent of all fixed assets of the registrant and its subsidiaries.

(5) It is a lease under which a material part of the property described under Item 4 is held by the registrant; or

(6) The amount of the contract, or its importance to the business of the registrant and its subsidiaries, are material and the terms and conditions are of a nature of which investors reasonably should be informed.

(c) Any management contract or bonus or profit-sharing plan, contract or arrangement (or if not set forth in any formal document, a written description thereof), except the following, shall be deemed material and shall be filed:

(1) Ordinary purchase and sales agency agreements;

(2) Agreements with managers of stores in a chain organization or similar organization;

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

10. Copies of each material foreign patent for an invention not covered by a United States patent.

(Secs. 12 and 23; 48 Stat. 892 and 901, as amended; 15 U.S.C. 781 and 78w)

[F.R. Doc. 65-2572; Filed, Mar. 15, 1965; 8:45 a.m.]

[Release No. 34-7545]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

General Form for Annual Reports

The Securities and Exchange Commission has adopted certain amendments to Form 10-K (listed and described in 17 CFR 249.310) under the Securities Exchange Act of 1934. This form is a general form for annual reports of issuers having securities registered on a national securities exchange and issuers required to file reports pursuant to Section 15(d) of that Act. The purpose of the amendments is to make the form available for annual reports of issuers of securities registered pursuant to the recently enacted section 12(g) of the Act.

Notice of the proposed amendments was published December 31, 1964 in Securities Exchange Act Release No. 7494 (30 F.R. 346). A number of helpful comments were received in response to this release and certain changes in the proposed amendments have been made as a result of the consideration of the comments submitted and further consideration of the proposed amendments by the Commission. The principal changes are described below.

The general instructions to the form have been revised to make appropriate references to reporting by issuers having securities registered under the new section 12(g). The revised instructions have been placed at the beginning of the form, instead of following the facing sheet, in order to set them forth more prominently and to avoid interrupting the continuity of the form proper.

Eight copies of the report are required to be filed with the Commission. Four copies are to be kept in the Commission's principal office for the use of the staff and for public inspection. The additional copies will be placed in the principal regional offices of the Commission and in the regional office for the region in which the registrant has its principal office. This is intended to make the information contained in the report more readily available to interested persons, in line with recommendations of the Special Study of Securities Markets.

The facing sheet of this form asks for the registrant's I.R.S. employer identification number. The Commission's electronic data processing program requires the use of a single number for each registrant. The I.R.S. number, which is readily available, will provide means whereby all filings made by registrant with the Commission under one or more acts can be readily identified through use of its equipment.

Item 1 of the previous form has been deleted and Item 2 renumbered Item 1. This item which previously called for the number of stockholders of record has been amended to require information with respect to the approximate number of holders of record of each class of equity securities of the registrant. In the Form as published for comment, it was proposed to revise Item 1 in Form 10-K to require disclosure of the number of shares known by the registrant to be held for the account of customers in the names of brokers. After consideration of the comments received the Commission has decided not to require disclosure of this information.

The amended form includes new item 2 calling for a summary of all transactions involving increases or decreases in outstanding equity securities during the fiscal year. The information is to be given in the form of a reconciliation between the amounts shown on the balance sheet as of the end of the fiscal year and those shown on the previous yearend balance sheet.

Item 7, which calls for the remuneration of officers and directors of the registrant, has been amended to clarify the item in certain respects and to provide that the remuneration of individual directors and officers need not be given with respect to persons who ceased to be officers and directors prior to the filing of the initial registration statement, provided the same information is not otherwise required to be disclosed in material filed with the Commission. The amended item also requires that in stating the aggregate remuneration of all directors and officers as a group, the number of persons in the group shall be stated.

The proposed amendments to Form 10-K as published for comment contained a proposed amendment to Item 9, which calls for information regarding the interest of management and others in certain transactions, to conform the item to the proposed amendment of the corresponding item of the proxy rules. The Commission has determined to defer amending Item 9 of Form 10-K to a later date in order to permit further study of the problems involved.

The Instructions as to Exhibits have been amended to require the filing of material contracts and material patents in accordance with the amended provisions of the Act. Such instructions require the filing of all material contracts, not made in the ordinary course of business, which were performed or to be performed in whole or in part after the beginning of the fiscal year. However, the refiling of any material contracts previously filed is not required.

Commission action. The Securities and Exchange Commission, acting pursuant to sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934, as amended, hereby amends Form 10-K (listed and described in 17 CFR 249.310) to read as set forth below. The amended form is applicable to annual reports filed on or after April 5, 1965, provided that any issuer desiring, or required, to file a report on Form 10-K prior to such date may file such report on the amended form.

By the Commission, March 5, 1965.

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

§ 249.310 Form 10-K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 for which no other form is prescribed.

GENERAL INSTRUCTIONS

A. *Rule as to Use of Form 10-K.*[1]

(a) Form 10-K shall be used for annual reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for which no other form is prescribed.

(b) Reports on this form shall be filed within 120 days after the end of the fiscal year covered by such reports.

B. *Application of General Rules and Regulations.*

(a) The General Rules and Regulations under the Act contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

(b) Particular attention is directed to Regulation 12B (§§ 240.12b-1 to 240.12b-36) which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the report. The definitions contained in Rule 12b-2 (17 CFR 240.12b-2) should be especially noted. See also Regulations 13A and 15D (17 CFR 240.13a-1 to 240.13a-15 and 17 CFR 240.15d-1 to 240.15d-21).

C. *Preparation of Report.*

(a) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b-12 (17 CFR 240.12b-12). The report shall contain the item numbers and captions of all items required to be answered, but the text of such items may be omitted provided the answers thereto are prepared in the manner specified in Rule 12b-13 (17 CFR 240.12b-13).

(b) Except as otherwise stated, the information required shall be given as of the end of the registrant's fiscal year, or as of the latest practicable date subsequent thereto.

D. *Signature and Filing of Report.*

Eight complete copies of each report on this form, including exhibits and all papers and documents filed as a part thereof, shall be filed with the Commission. At least one complete copy shall be filed with each exchange on which any security of the registrant is listed and registered. At least one of the copies filed with the Commission and one filed with each such exchange shall be manually signed. Unsigned copies shall be conformed.

E. *Incorporation of Certain Information by Reference.*

Information contained in an annual report to security holders furnished to the Commission with this report or pursuant to Rule 14a-3 (17 CFR 240.14a-3), or in definitive material filed with the Commission pursuant to Section 14 of the Act, may be incorporated by reference in answer or partial answer to any item of this form. In addition, any financial statements contained in any such annual report or definitive material may be incorporated by reference provided such financial statements substantially meet the requirements of this form.

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[1] Form 10-K, as amended Mar. 5, 1965, is applicable to annual reports filed on or after Apr. 5, 1965 (See Securities Exchange Act Release No. 7545).

F. Disclosure With Respect to Foreign Subsidiaries.

Information with respect to any foreign subsidiary which is required by any item or other requirement of this form may be omitted from the report to the extent that the required disclosure would be detrimental to the registrant, provided a statement is made that such information has been omitted. Where the names of foreign subsidiaries are omitted pursuant to this instruction, the number of subsidiaries whose names are omitted shall be stated in the report and the names of such subsidiaries shall be separately furnished. The Commission will accord confidential treatment to such names, but may, in its discretion, call for justification that the required disclosure would be detrimental.

G. Information as to Employee Stock Purchase, Savings, and Similar Plans.

Attention is directed to Rule 15d–21 (17 CFR 240.15d–21) which provides that separate annual and other reports need not be filed pursuant to Section 15(d) of the Act with respect to any employee stock purchase, savings or similar plan if the issuer of the stock or other securities offered to employees pursuant to the plan furnishes to the Commission the information and documents specified in the rule. If the registrant elects to follow the procedure permitted by Rule 15d–21 (17 CFR 240.15d–21), the information, financial statements and exhibits specified in paragraph (a)(2) of the rule shall be furnished on Form 11–K (listed and described in 17 CFR 249.311) as an exhibit to the registrant's annual report. Such exhibit need not be signed, but the accountant's certificate accompanying the financial statements included therein shall be manually signed.

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10–K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended _____

Commission file number _____

_____

(Exact name of registrant as specified in its charter)

_____

(State or other jurisdiction of incorporation or organization)

_____

(I.R.S. Employer Identification No.)

_____

(Address of principal executive offices)

_____

(Zip Code)

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT

Title of each class

_____

_____

Name of each exchange on which registered

_____

_____

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT

_____

(Title of class)

_____

(Title of class)

INFORMATION REQUIRED IN REPORT

Item 1. Number of Equity Security Holders.

State in the tabular form indicated below, as of a specified date, the approximate number of holders of record of each class of equity securities of the registrant.

(A) Title of class	(B) Number of record holders

Instructions. 1. Attention is directed to the definition of the term "equity security" in Section 3(a)(11) of the Act.

2. The information shall be given as of the end of the last fiscal year or as of any subsequent date, except that if the latest determination of the number of record holders of any class of equity securities was made for some other purpose within 90 days prior to the end of the last fiscal year, the information with respect to such class may be given as of the date of such determination.

Item 2. Increases and Decreases in Outstanding Equity Securities.

Give the following information as to all increases and decreases during the fiscal year in the amount of equity securities of the registrant outstanding:

(a) The title of the class of securities involved;

(b) The date of the transaction;

(c) The amount of securities involved and whether an increase or a decrease;

(d) A brief description of the transaction in which the increase or decrease occurred. If previously reported, the description may be incorporated by a specific reference to the previous filing.

(e) If the transaction involved a sale of securities which were not registered under the Securities Act of 1933, an indication of the exemption claimed and the facts relied upon to make the exemption available. If previously reported, the information may be incorporated by a specific reference to the previous filing.

Instruction. The information shall be prepared in the form of a reconciliation between the amounts shown to be outstanding on the balance sheet to be filed with this report and the amounts shown on the registrant's balance sheet for its previous fiscal year. Similar or related transactions, or numerous small transactions, may be grouped together showing the dates between which all such transactions occurred.

Item 3. Parents and Subsidiaries of Registrant.

Furnish a list or diagram of all parents and subsidiaries of the registrant and as to each person named indicate the percentage of voting securities owned, or other bases of control, by its immediate parent.

Instructions. 1. This item need not be answered if there has been no change in the list or diagram as last previously reported.

2. The list or diagram shall include the registrant and shall be so prepared as to show clearly the relationship of each person named to the registrant and to the other persons named. If any person is controlled by means of the direct ownership of its securities by two or more persons, so indicate by appropriate cross reference.

3. Designate by appropriate symbols (a) subsidiaries for which separate financial statements are filed; (b) subsidiaries included in the respective consolidated financial statements; (c) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (d) other subsidiaries, indicating briefly why statements of such subsidiaries are not filed.

4. Include the name of the State or other jurisdiction in which each subsidiary was incorporated or organized.

5. The names of particular subsidiaries may be omitted if the unnamed subsidiaries, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

ITEMS 4 TO 9, INCLUSIVE, SHALL NOT BE RESTATED OR ANSWERED BY ANY REGISTRANT WHICH, SINCE THE CLOSE OF THE FISCAL YEAR, HAS FILED WITH THE COMMISSION A DEFINITIVE PROXY STATEMENT PURSUANT TO REGULATION 14A (17 CFR 240.14a–1 TO 240.14a–102), OR A DEFINITIVE INFORMATION STATEMENT PURSUANT TO REGULATION 14C (17 CFR 240.14c–1 TO 240.14c–101), WHICH INVOLVED THE ELECTION OF DIRECTORS.

Item 4. Changes in the Business.

Briefly describe any materially important changes during the fiscal year, not previously reported, in the business of the registrant and its subsidiaries.

Instructions. 1. Include changes in the business of subsidiaries only insofar as they constitute materially important changes in the business of the total enterprise represented by the registrant and its subsidiaries.

2. If the business consists of the production or distribution of different kinds of products or the rendering of different kinds of services, indicate insofar as practicable any material changes during the fiscal year in the relative importance of each product or service or class of similar products or services which contribute 15 percent or more to the gross volume of business done during the fiscal year. Indicate briefly any material changes during the fiscal year in the types of products produced or distributed or services rendered or in the mode of conducting the business, such as fundamental changes in the method of distribution.

3. Indicate briefly any material changes during the fiscal year in the general competitive position of the business in the industry. If several products or services are involved, separate consideration should be given to the principal products or services or classes of products or services.

4. State briefly any other material changes in the business during the fiscal year, such as those resulting from any bankruptcy, receivership or other legal proceeding, from any other materially important reorganization, readjustment or succession, or from the acquisition or disposition of any principal plants, mines or other physical properties. Indicate also the nature and extent of any material strikes or other work stoppages during the fiscal year.

Item 5. Principal Holders of Voting Securities.

If any person owns of record, or is known by the registrant to own beneficially, more than 10 percent of the outstanding voting securities of the registrant, name each such person, state the approximate amount of such securities owned of record but not owned beneficially, the approximate amount owned beneficially and the percentage of outstanding voting securities represented by the amount owned by him in each such manner.

Instruction. To the extent that the information required by this item is given in answer to Item 3, a reference to such item will suffice.

Item 6. Directors of Registrant.

Furnish the following information, in tabular form to the extent practicable, with respect to each director of the registrant:

(a) Name each such director, state the date on which his present term of office will expire and list all other positions and offices with the registrant presently held by him.

(b) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. If not previously reported, furnish similar information as to all of his principal occupations or employments during the last five years.

(c) State, as of the most recent practicable date, the approximate amount of each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such securities, make a statement to that effect.

(d) If more than 10 percent of any class of securities of the registrant or any of its parents or subsidiaries are beneficially owned by him and his associates, state the approximate amount of each class of such securities beneficially owned by such associates, naming each associate whose holdings are substantial.

Item 7. Remuneration of Directors and Officers.

(a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to the following persons for services in all capacities:

(1) Each director of the registrant whose aggregate direct remuneration exceeded $30,000, and each of the three highest paid officers of the registrant whose aggregate direct remuneration exceeded that amount, naming each such director and officer.

(2) All directors and officers of the registrant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Capacities in which remuneration was received	(C) Aggregate direct remuneration

Instructions. 1. Except as provided in Instruction 2, paragraph (a) of this item applies to any person who was a director or officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the registrant.

2. Paragraph (a)(1) of this item does not apply to any person who was not named as a director or officer of the registrant in the first registration statement filed on Form 10 for the registration of a class of securities pursuant to Section 12 of the Act, provided (i) such person has not been a director or officer of the registrant since the filing of such statement and (ii) the same information is not otherwise required to be disclosed in any other material filed with the Commission.

3. The information is to be given on an accrual basis if practicable. The tables required by this paragraph (a) and paragraph (b) below may be combined if the issuer so desires.

4. Do not include remuneration paid to a partnership in which any director or officer was a partner, but see Item 9 below.

(b) Furnish the following information, in substantially the tabular form indicated below, as to all pension or retirement benefits proposed to be paid under any existing plan in event of retirement at normal retirement date, directly or indirectly, by the registrant or any of its subsidiaries to each director or officer named in answer to paragraph (a)(1) above:

(A) Name of individual	(B) Amounts set aside or accrued during registrant's last fiscal year	(C) Estimated annual benefits upon retirement

Instructions. 1. The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

3. The information called for by Column (C) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classification.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings of the registrant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than direct remuneration for services and pension or retirement benefits) proposed to be made in the future directly or indirectly by the registrant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a)(1), naming each such person, and (ii) all directors and officers of the registrant as a group, without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits.

Item 8. Options To Purchase Securities.

Furnish the following information as to all options to purchase securities, from the registrant or any of its subsidiaries, which were granted to or exercised by the following persons since the beginning of the registrant's last fiscal year: (i) each director or officer named in answer to paragraph (a)(1) of Item 7 naming each such person and (ii) all directors and officers of the registrant as a group, without naming them.

(a) As to options granted, state (i) the title and amount of securities called for; (ii) the prices, expiration dates and other material provisions; (iii) the consideration received for the granting thereof; and (iv) the market value of the securities called for on the granting date.

(b) As to options exercised, state (i) the title and amount of securities purchased; (ii) the purchase price; and (iii) the market value of the securities purchased on the date of purchase.

Instructions. 1. The term "options" as used in this item includes all options, warrants or rights other than those issued to security holders as such on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. (i) Where the total market value on the granting dates of the securities called for by all options granted during the period specified does not exceed $10,000 for any officer or director named in answer to paragraph (a)(1), or $30,000 for all officers and directors as a group, this item need not be answered with respect to options granted to such person or group. (ii) Where the total market value on the dates of purchase of all securities purchased through the exercise of options during the period specified does not exceed $10,000 for any such person or $30,000 for such group, this item need not be answered with respect to options exercised by such person or group.

4. The information for all directors and officers as a group regarding market value of the securities on the granting date of the options and on the purchase date, may be given in the form of price ranges for each calendar quarter during which options were granted or exercised.

Item 9. Interest of Management and Others in Certain Transactions.

Describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of any of the following persons in any material transactions since the beginning of the registrant's last fiscal year to which the registrant or any of its subsidiaries was a party:

(a) Any director or officer of the registrant;

(b) Any security holder named in answer to Item 5; or

(c) Any associate of any of the foregoing persons.

Instructions. 1. See Instruction 1 to Item 7(a). Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

2. As to any transaction involving the purchase or sale of assets by or to the registrant or any subsidiary, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within two years prior to the transaction.

3. This item does not apply to any interest arising from the ownership of securities of the registrant where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

4. No information need be given under this paragraph as to any remuneration or other transaction reported in response to Item 7 or 8.

5. No information need be given under this item as to any transaction or any interest therein where—

(i) the rates or charges involved in the transaction are fixed by law or determined by competitive bids;

(ii) the interest of the specified persons in the transaction is solely that of a director of another corporation which is a party to the transaction;

(iii) the transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or other similar services;

(iv) the interest of the specified persons does not exceed $30,000;

(v) the transaction does not involve remuneration for services, directly or indirectly, and (A) the interest of the specified persons arises from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation which is a party to the transaction, (B) the transaction is in the ordinary course of business of the registrant or its subsidiaries, and (C) the amount of such transaction or series of transactions is less than 10 percent of the total sales or purchases, as the case may be, of the registrant and its subsidiaries.

6. Information shall be furnished under this item with respect to transactions not excluded above which involve remuneration, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

7. This item does not require the disclosure of any interest in any transaction unless such interest and transaction are material.

Item 10. Financial Statements and Exhibits.

List below all financial statements and exhibits filed as a part of the annual report:

(a) Financial statements.

(b) Exhibits.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this annual report to be signed on its behalf by the undersigned thereunto duly authorized.

(Registrant)

By ---

(Signature) *

Date ---

*Print name and title of signing officer under his signature.

INSTRUCTIONS AS TO FINANCIAL STATEMENTS

The following instructions specify the balance sheets and profit and loss statements required to be filed as a part of annual reports on this form. Regulation S–X (17 CFR Part 210) governs the certification, form and content of such balance sheets and profit and loss statements, including the basis of consolidation, and prescribes the statements of surplus and the schedules to be filed in support thereof.

1. *Statements of the Registrant.*

(a) There shall be filed for the registrant a certified balance sheet as of the close of the fiscal year and a certified profit and loss statement for the fiscal year.

(b) Notwithstanding paragraph (a), the individual financial statements of the registrant may be omitted if (1) consolidated statements of the registrant and one or more of its subsidiaries are filed, and (2) the conditions specified in either of the following paragraphs are met:

(i) The registrant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally-held subsidiaries; or

(ii) The registrant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85 percent or more of the total assets shown by the consolidated balance sheet filed and the registrant's total gross revenues for the period for which its profit and loss statement would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85 percent or more of the total gross revenue shown by the consolidated profit and loss statement filed.

2. *Consolidated Statements.*

There shall be filed for the registrant and its subsidiaries a certified consolidated balance sheet as of the close of the fiscal year of the registrant and a certified consolidated profit and loss statement for such fiscal year.

3. *Statements of Subsidiaries not Consolidated.*

(a) Subject to Rule 4–03 of Regulation S–X (17 CFR 210.4–03) regarding group statements, there shall be filed for each majority-owned subsidiary of the registrant not consolidated a certified balance sheet as of the close of the subsidiary's most recently ended fiscal year and a certified profit and loss statement for such fiscal year.

(b) If the fiscal year of any unconsolidated subsidiary ends within 105 days before the date of filing the annual report, or after the date of filing, the statements of the subsidiary required by paragraph (a) may be filed as an amendment to the report within 105 days after the end of the subsidiary's fiscal year.

4. *Fifty-percent Owned Persons.*

If the registrant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned directly or indirectly by another single interest, there shall be filed for each such person the financial statements which would be required if it were a registrant. The statements filed for each such person shall identify the other single interest.

5. *Omission of Statements Required by Instructions 3 and 4.*

Notwithstanding Instructions 3 and 4, there may be omitted from the annual report all financial statements of any one or more unconsolidated subsidiaries or 50 percent owned persons if all such subsidiaries and 50 percent owned persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

6. *Affiliates Whose Securities Are Pledged as Collateral.*

(a) For each affiliate of the registrant whose securities constitute a substantial portion of the collateral securing any class of registered securities, there shall be filed the financial statements that would be required if the affiliate were a registrant. However, statements need not be filed pursuant to this instruction for any person whose statements are otherwise filed with the report on an individual, consolidated or combined basis.

(b) For the purposes of this instruction, securities of a person shall be deemed to constitute a substantial portion of the collateral if the aggregate principal amount, par value, or book value as shown by the books of the registrant, or market value, whichever is the greatest of such securities equals 20 percent or more of the principal amount of the class secured thereby.

7. *Statements of Banks and Insurance Companies.*

Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks or insurance companies (other than title insurance companies) need not be certified.

8. *Registrants Not in the Production Stage.*

(a) Notwithstanding the foregoing instructions, if the registrant falls within the terms of paragraph (b) or (c) of Rule 5A–01 of Regulation S–X (17 CFR 210.5a–01), the following statements, all of which shall be certified except as provided in (b) below, shall be filed for the registrant and each of its significant subsidiaries, if any:

(i) The statements specified in Rules 5A–02, 5A–03, 5A–04, 5A–05 and 5A–07 (17 CFR 210.5a–02, 210.5a–03, 210.5a–04, 210.5a–05 and 210.5a–07) shall be filed as of the end of the fiscal year.

(ii) The statement of cash receipts and disbursements specified in Rule 5A–06 (17 CFR 210.5a–06) shall be filed for the fiscal year.

(b) The financial statements prescribed in (a) above need not be certified if all of the following conditions are met by the registrant and each of its significant subsidiaries, if any:

(i) Gross receipts from all sources for the fiscal year are not in excess of $5,000;

(ii) The registrant has not purchased or sold any of its own stock, granted options therefor, or levied assessments upon outstanding stock;

(iii) Expenditures for all purposes for the fiscal year are not in excess of $5,000;

(iv) No material change in the business has occurred during the fiscal year, including any bankruptcy, reorganization, readjustment or succession or any material acquisition or disposition of plants, mines, mining equipment, mine rights or leases;

(v) No exchange upon which the shares are listed, or governmental authority having jurisdiction, requires the furnishing to it, or the publication of, certified financial statements.

9. *Filing of Other Statements in Certain Cases.*

The Commission may, upon the informal written request of the registrant and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Commission may also by informal written notice require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

INSTRUCTIONS AS TO EXHIBITS

Subject to Rule 12b–32 (17 CFR 240.12b–32) regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the report:

A. Copies of all amendments or modifications, not previously filed, to all exhibits previously filed (or copies of such exhibits as amended or modified).

B. (a) Copies of every material contract not made in the ordinary course of business and not previously filed which was performed or to be performed in whole or in part at or after the beginning of the fiscal year covered by the report on this form. Only contracts need be filed as to which the registrant or a subsidiary of the registrant was or is a party or succeeded to a party by assumption or assignment or in which the registrant or such subsidiary had or has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Directors, officers, promoters, voting trustees, or security holders named in answer to Item 5 are parties thereto except where the contract merely involves purchase or sale of current assets having a determinable market price, at such price;

(2) It is of such materiality as to call for specific reference to it in answer to Item 4 or 9;

(3) The registrant's business is substantially dependent upon it, as in the case of continuing contracts to sell the major part of registrant's production in the case of a manufacturing enterprise or to purchase the major part of registrant's requirements of goods in the case of a distribution enterprise, or licenses to use a patent or formula upon which registrant's business depends to a material extent;

(4) It calls for the acquisition or sale of fixed assets for a consideration exceeding 10 percent of all fixed assets of the registrant and its subsidiaries;

(5) It is a lease under which a material amount of property is held by the registrant; or

(6) The amount of the contract, or its importance to the business of the registrant and its subsidiaries, are material, and the terms and conditions are of a nature of which investors reasonably should be informed.

(c) Any management contract or bonus or profit-sharing plan, contract or arrangement (or if not set forth in any formal document, a written description thereof), except

the following, shall be deemed material and shall be filed:

(1) Ordinary purchase and sales agency agreements;

(2) Agreements with managers of stores in a chain organization or similiar organization;

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

C. Copies of each material foreign patent for an invention not covered by a United States patent, not previously filed.

D. Copies of all other documents of a character required to be filed as an exhibit to an original registration statement on Form 10 (listed and described in 17 CFR 249.210) which were executed or in effect during the fiscal year and not previously filed.

SUPPLEMENTAL INFORMATION TO BE FURNISHED WITH REPORTS FILED PURSUANT TO SECTION 15(d) OF THE ACT BY ISSUERS WHICH HAVE NOT REGISTERED SECURITIES PURSUANT TO SECTION 12 OF THE ACT

(a) Every registrant which files an annual report on this form pursuant to section 15(d) of the Act shall furnish to the Commission for its information, at the time of filing its report on this form, four copies of the following:

(1) Any annual report to stockholders covering the registrant's last fiscal year; and

(2) Every proxy statement, form of proxy or other proxy soliciting material sent to more than ten of the registrant's stockholders with respect to any annual or other meeting of stockholders.

(b) The foregoing material shall not be deemed to be "filed" with the Commission or otherwise subject to the liabilities of Section 18 of the Act, except to the extent that the registrant specifically incorporates it in its annual report on this form by reference.

(c) If no such annual report or proxy material has been sent to stockholders, a statement to that effect shall be included in the answer to Item 10. If such report or proxy material is to be furnished to stockholders subsequent to the filing of the annual report on this form, the registrant shall so state in answer to Item 10 and shall furnish copies of such material to the Commission when it is sent to stockholders.

(Secs. 13, 15, and 23; 48 Stat. 894, 895, and 901, as amended; 15 U.S.C. 78m, 78o, and 78w)

[F.R. Doc. 65-2573; Filed, Mar. 15, 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 the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

ACETYL-(*p*-NITROPHENYL)-SULFANILAMIDE; 2-CHLORO-4-NITROBENZAMIDE

1. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 4D1059) filed by Dr. Salsbury's Laboratories, Charles City, Iowa, and other relevant data, has concluded that the food additive regulations should be amended to provide the conditions under which acetyl-(*p*-nitrophenyl)-sulfanilamide and 2-chloro-4-nitrobenzamide may be safely used in chicken feed as an aid in the prevention of coccidiosis. 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), the food additive regulations are amended in the following respects:

a. Section 121.264(b) is amended in the table by indicating item 1.1 as reserved, designating the existing item as 1.2, and adding thereto a new item 1.3, as follows:

§ 121.264 Acetyl-(*p*-nitrophenyl)-sulfanilamide.

* * * * * *

(b) * * *

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1.1 (Reserve)					
1.2 * * *	* * *	* * *	* * *	* * *	* * *
1.3 Acetyl-(*p*-nitrophenyl)-sulfanilamide.	181.6 (0.02%)	2-Chloro-4-nitrobenzamide.	227 (0.025%)	For chickens; not to be fed to laying chickens; withdraw 4 days before slaughter; from feed additive premixes containing not more than 20 percent acetyl-(*p*-nitrophenyl)-sulfanilamide and 25 percent 2-chloro-4-nitrobenzamide.	As an aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, and *E. acervulina*.
* * *	* * *	* * *	* * *	* * *	* * *

* * * * * *

b. Part 121 is amended by adding to Subpart C the following new section:

§ 121.269 2-Chloro-4-nitrobenzamide.

2-Chloro-4-nitrobenzamide may be safely used in the treatment of animals in accordance with the following prescribed conditions:

(a) The additive is the chemical 2-chloro-4-nitrobenzamide ($C_7H_5O_3N_2Cl$):

(1) Minimum melting point 170° C.

(2) Moisture content not to exceed 1.0 percent.

(3) Purity not less than 98 percent on an anhydrous basis.

(b) The additive is used or intended for use as prescribed in the following table (the term "principal ingredient" as used in the table refers to the additive named in the heading of this section):

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
2-Chloro-4-nitrobenzamide.	227 (0.025%)	Acetyl-(*p*-nitrophenyl)-sulfanilamide.	181.6 (0.02%)	For chickens; not to be fed to laying chickens; withdraw 4 days before slaughter; from feed additive premixes containing not more than 25 percent 2-chloro-4-nitrobenzamide and 20 percent acetyl-(*p*-nitrophenyl)-sulfanilamide.	As an aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix* or *E. acervulina*.

(c) To assure safe use, the label and labeling of the additive or additives, any combination of additives, and any feed additive premix, feed additive concentrate, feed additive supplement or complete feed prepared therefrom, shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive or additives.

(2) A statement of the quantity of the additive or additives contained therein.

(3) Adequate directions and warnings for use.

2. Based upon an evaluation of the data before him and proceeding under the authority of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), the Commissioner of Food and Drugs has concluded that where chickens have been fed feed containing 2-chloro-4-nitrobenzamide in accordance with § 121.269, tolerance limitations are required in order to assure that the edible products of chickens are safe for consumption. Therefore, Subpart D is amended by adding thereto the following new section:

§ 121.1177 2-Chloro-4-nitrobenzamide.

A tolerance of zero is established for residues of 2-chloro-4-nitrobenzamide and its metabolites in the edible tissues and byproducts of chickens.

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), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: March 8, 1965.

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

[F.R. Doc. 65-2548; Filed, Mar. 15, 1965; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SYNTHETIC ISOPARAFFINIC PETROLEUM HYDROCARBONS

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 5A1632) filed by Humble Oil & Refining Co., Post Office Box 2180, Houston 1, Tex., and other relevant material, has concluded that an amendment to the food additive regulations should issue to prescribe the conditions of safe use of synthetic isoparaffinic petroleum hydrocarbons as a coating for shell eggs. 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), § 121.1154 (c) is amended by the addition of a new item 4 as follows:

§ 121.1154 Synthetic isoparaffinic petroleum hydrocarbons.

* * * * *

(c) * * *

Uses	*Limitations*
* * *	* * *
4. As a coating on shell eggs.	In an amount not to exceed good manufacturing practice.

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: March 3, 1965.

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

[F.R. Doc. 65-2672; Filed, Mar. 15, 1965; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6808]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Installment Obligations Transmitted At Death When Prior Law Applied To Transmission

On January 5, 1965, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 691 of the Internal Revenue Code of 1954 (relating to recipients of income in respect of decedents) to conform the regulations to the Act of September 2, 1964 (Public Law 88-570, 78 Stat. 854) was published in the FEDERAL REGISTER (30 F.R. 37). No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the regulations as proposed are hereby adopted.

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

Approved: March 8, 1965.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 691 of the Internal Revenue Code of 1954 to the Act of September 2, 1964 (Public Law 88-570, 78 Stat. 854), such regulations are amended as follows:

PARAGRAPH 1. Paragraph (a) of § 1.691(a)-1 is amended to read as follows:

§ 1.691(a)-1 **Income in respect of a decedent.**

(a) *Scope of section 691.* In general, the regulations under section 691 cover: (1) The provisions requiring that amounts which are not includible in gross income for the decedent's last taxable year or for a prior taxable year be included in the gross income of the estate or persons receiving such income to the extent that such amounts constitute "income in respect of a decedent"; (2) the taxable effect of a transfer of the right to such income; (3) the treatment of certain deductions and credit in respect of a decedent which are not allowable to the decedent for the taxable period ending with his death or for a prior taxable year; (4) the allowance to a recipient of income in respect of a decedent of a deduction for estate taxes attributable to the inclusion of the value of the right to such income in the decedent's estate; (5) special provisions with respect to installment obligations acquired from a decedent and with respect to the allowance of a deduction for estate taxes to a surviving annuitant under a joint and survivor annuity contract; and (6) special provisions relating to installment obligations transmitted at death when prior law applied to the transmission.

* * * * *

PAR. 2. Paragraph (a) of § 1.691(a)-5 is amended to read as follows:

§ 1.691(a)-5 **Installment obligations acquired from decedent.**

(a) Section 691(a)(4) has reference to an installment obligation which remains uncollected by a decedent (or a prior decedent) and which was originally acquired in a transaction the income from which was properly reportable by the decedent on the installment method under section 453. Under the provisions of section 691(a)(4), an amount equal to the excess of the face value of the obligation over its basis in the hands of the decedent (determined under section 453(d)(2) and the regulations thereunder) shall be considered an amount of income in respect of a decedent and shall be treated as such. The decedent's estate (or the person entitled to receive such income by bequest or inheritance from the decedent or by reason of the decedent's death) shall include in its gross income when received the same proportion of any payment in satisfaction of such obligations as would be returnable as income by the decedent if he had lived and received such payment. No gain on account of the transmission of such obligations by the decedent's death is required to be reported as income in the return of the decedent for the year of his death. See § 1.691(e)-1 for special provisions relating to the filing of an election to have the provisions of section 691(a)(4) apply in the case of installment obligations in respect of which section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) would have applied but for the filing of a bond referred to therein.

* * * * *

PAR. 3. Section 1.691(e) is amended by redesignating such section as § 1.691(f), by redesignating section 691(e) as section 691(f), and by adding a historical note. As amended, this section reads as follows:

§ 1.691(f) Statutory provisions; recipients of income in respect of decedents; cross reference.

Sec. 691. *Recipients of income in respect of decedents.* * * *

(f) *Cross reference.* For application of this section to income in respect of a deceased partner, see section 753.

[Sec. 691(e) as redesignated by sec. 1, Act of Sept. 2, 1964 (Pub. Law 88-570, 78 Stat. 854)]

PAR. 4. Section 1.691(e)-1 is redesignated as § 1.691(f)-1. As redesignated, this section reads as follows:

§ 1.691(f)-1 Cross reference.

See section 753 and the regulations thereunder for application of section 691 to income in respect of a deceased partner.

PAR. 5. Immediately following § 1.691(d)-1 there are inserted the following new sections:

§ 1.691(e) Statutory provisions; recipients of income in respect of decedents; installment obligations transmitted at death when prior law applied to transmission.

Sec. 691. *Recipients of income in respect of decedents.* * * *

(e) *Installment obligations transmitted at death when prior law applied to transmission*—(1) *In general.* Effective with respect to the first taxable year to which the election referred to in paragraph (2) applies and to each taxable year thereafter, subsection (a)(4) shall apply in the case of installment obligations in respect of which section 44(d) of the Internal Revenue Code of 1939 (or the corresponding provisions of prior law) did not apply by reason of the filing of the bond referred to in such section or provisions. Subsection (c) of this section shall not apply in respect of any amount included in gross income by reason of this paragraph.

(2) *Election.* Installment obligations referred to in paragraph (1) may, at the election of the taxpayer holding such obligations, be treated as obligations in respect of which subsection (a)(4) applies. An election under this subsection for any taxable year shall be made not later than the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe.

(3) *Release of bond.* The liability under any bond filed under section 44(d) of the Internal Revenue Code of 1939 (or the corresponding provisions of prior law) in respect of which an election under this subsection applies is hereby released with respect to taxable years to which such election applies.

[Sec. 691(e) as added by sec. 1, Act of Sept. 2, 1964 (Pub. Law 88-570, 78 Stat. 854)]

§ 1.691(e)-1 Installment obligations transmitted at death when prior law applied.

(a) *In general*—(1) *Application of prior law.* Under section 44(d) of the Internal Revenue Code of 1939 and corresponding provisions of prior law, gains and losses on account of the transmission of installment obligations at the death of a holder of such obligations were required to be reported in the return of the decedent for the year of his death. However, an exception to this rule was provided if there was filed with the Commissioner a bond assuring the return as income of any payment in satisfaction of these obligations in the same proportion as would have been returnable as income by the decedent had he lived and received such payments. Obligations in respect of which such bond was filed are referred to in this section as "obligations assured by bond".

(2) *Application of present law.* Section 691(a)(4) of the Internal Revenue Code of 1954 (effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954) in effect makes the exception which under prior law applied to obligations assured by bond the general rule for obligations transmitted at death, but contains no requirement for a bond. Section 691(e)(1) provides that if the holder of the installment obligation makes a proper election, the provisions of section 691(a)(4) shall apply in the case of obligations assured by bond. Section 691(e)(1) further provides that the estate tax deduction provided by section 691(c)(1) is not allowable for any amount included in gross income by reason of filing such an election.

(b) *Manner and scope of election*—(1) *In general.* The election to have obligations assured by bond treated as obligations to which section 691(a)(4) applies shall be made by the filing of a statement with respect to each bond to be released, containing the following information:

(i) The name and address of the decedent from whom the obligations assured by bond were transmitted, the date of his death, and the internal revenue district in which the last income tax return of the decedent was filed.

(ii) A schedule of all obligations assured by the bond on which is listed—

(*a*) The name and address of the obligors, face amount, date of maturity, and manner of payment of each obligation,

(*b*) The name, identifying number (provided under section 6109 and the regulations thereunder), and address of each person holding the obligations, and

(c) The name, identifying number, and address, of each person who at the time of the election possesses an interest in each obligation, and a description of such interest.

(iii) The total amount of income in respect of the obligations which would have been reportable as income by the decedent if he had lived and received such payment.

(iv) The amount of income referred to in subdivision (iii) of this subparagraph which has previously been included in gross income.

(v) An unqualified statement, signed by all persons holding the obligations, that they elect to have the provisions of section 691(a)(4) apply to such obligations and that such election shall be binding upon them, all current beneficiaries, and any person to whom the obligations may be transmitted by gift, bequest, or inheritance.

(vi) A declaration that the election is made under the penalties of perjury.

(2) *Filing of statement.* This statement with respect to each bond to be released shall be filed in duplicate with the district director of internal revenue for the district in which the bond is maintained. The statement shall be filed not later than the time prescribed for filing the return for the first taxable year (including any extension of time for such filing) to which the election applies.

(3) *Effect of election.* The election referred to in subparagraph (1) of this paragraph shall be irrevocable. Once an election is made with respect to an obligation assured by bond, it shall apply to all payments made in satisfaction of such obligation which were received during the first taxable year to which the election applies and to all such payments received during each taxable year thereafter, whether the recipient is the person who made the election, a current beneficiary, or a person to whom the obligation may be transmitted by gift, bequest, or inheritance. Therefore, all payments received to which the election applies shall be treated as payments made on installment obligations to which section 691(a)(4) applies. However, the estate tax deduction provided by section 691(c) is not allowable for any such payment. The application of this subparagraph may be illustrated by the following example:

Example. A, the holder of an installment obligation, died in 1952. The installment obligation was transmitted at A's death to B who filed a bond on Form 1132 pursuant to paragraph (c) of § 39.44-5 of Regulations 118 (26 CFR Part 39, 1939 ed.) for the necessary amount. On January 1, 1965, B, a calendar year taxpayer, filed an election under section 691(e) to treat the obligation assured by bond as an obligation to which section 691(a)(4) applies, and B's bond was released for 1964 and subsequent taxable years. B died on June 1, 1965, and the obligation was bequeathed to C. On January 1, 1966, C received an installment payment on the obligation which had been assured by the bond. Because B filed an election with respect to the obligation assured by bond, C is required to treat the proper proportion of the January 1, 1966, payment and all subsequent payments made in satisfaction of this obligation as income in respect of a decedent. However, no estate tax deduction is allowable to C under section 691(c)(1) for any estate tax attributable to the inclusion of the value of such obligation in the estate of either A or B.

(c) *Release of bond.* If an election according to the provisions of paragraph (b) of this section is filed, the liability under any bond filed under section 44(d) of the 1939 Code (or the corresponding provisions of prior law) shall be released with respect to each taxable year to which such election applies. However, the liability under any such bond for an earlier taxable year to which the election does not apply shall not be released until the district director of internal revenue for the district in which the bond is maintained is assured that the proper portion of each installment payment received in such taxable year has been reported and the tax thereon paid.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[F.R. Doc. 65-2515; Filed, Mar. 15, 1965; 8:45 a.m.]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6807]

PART 47—DOCUMENTARY STAMP TAXES

Affixing of Documentary Tax Stamps By Certain Clearinghouses

On November 24, 1964, notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 15771), with respect to amending the Documentary Stamp Tax Regulations (26 CFR Part 47) to provide for the payment of documentary stamp taxes by certain securities clearinghouses for brokers or dealers who are not members of a national securities exchange. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted.

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

Approved: March 8, 1965.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to revise the Documentary Stamp Tax Regulations (26 CFR Part 47) to provide for the payment of documentary stamp taxes by certain securities clearinghouses for brokers or dealers who are not members of a national securities exchange, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (b) of § 47.4352–1 is amended to read as follows:

§ 47.4352–1 Affixing of stamps.

* * * * *

(b) *Requirement of memoranda of agreements to sell, etc.* Every person who makes an agreement to sell stock or certificates of indebtedness, or who, by sale or otherwise, transfers title to stock or certificates of indebtedness by delivery of certificates assigned in blank, shall, as a part of the transaction, promptly make and deliver to the buyer or transferee, or to the agent of the buyer or transferee, a bill or memorandum of such agreement to sell, sale, or transfer, duly signed by the seller, or transferor, or his agent. Such bill or memorandum shall show the date of the transaction, the names of the parties thereto, the description and number of shares of stock or certificates of indebtedness, the tax paid on the transaction, and, where a sale of stock is involved, the sale price, or where a transfer is involved without a sale, the actual value of the stock and the basis used for determining such value. (For definition of "actual value" see paragraph (b) (2) (ii) of § 47.4301–1 and paragraph (b) (3) of § 47.4321–1.) No more than one stamped bill or memorandum shall be required in respect of a single transaction. (See §§ 47.4352–2 and 47.4353–1 relative to rules applicable to securities exchanges and clearinghouses.)

* * * * *

PAR. 2. Section 47.4352–2 is added to read as follows:

§ 47.4352–2 Affixing of stamps by certain clearinghouses.

(a) *Appointment of agent.* A member of a clearinghouse affiliated with a securities association or exchange which is registered with the Securities and Exchange Commission as a national securities association or exchange may appoint in writing such clearinghouse as his agent for the purpose of affixing and canceling the stamps required in respect of his transactions in stock or certificates of indebtedness.

(b) *Conditions for payment through agent.* The privilege granted by paragraph (a) of this section may be exercised only upon compliance with the following conditions:

(1) *Authorization.* The member shall authorize and require the clearinghouse to pay the tax in respect of all transactions (except a transaction to which the following sentence applies) in stock or certificates of indebtedness, including rights to subscribe for or to receive stock, arising in the conduct of his business, irrespective of whether the stock or certificates of indebtedness are listed on a securities exchange or are unlisted, and whether the transactions are clearable or not. With respect to a particular transaction, if the buyer of the stocks or certificates does not authorize the clearinghouse to act as his agent for the receipt of the bill or memorandum of sale, the authority granted by the member to the clearinghouse to pay the tax with respect to the transaction shall be considered withdrawn, and this section shall not apply with respect to such transaction.

(2) *Bill or memorandum of sale from member.* The member shall furnish the clearinghouse a bill or memorandum of sale showing the amount of tax payable on each of his transactions as specified in subparagraph (1) of this paragraph and shall include in such bill or memorandum of sale the information required by paragraph (b) of § 47.4352–1. The bill or memorandum of sale shall be filed with the clearinghouse not later than the day on which the transactions covered thereby are due for settlement (blotter date).

(3) *Daily records to be kept by member.* The member shall maintain complete and adequate daily records, such as a blotter or similar book of original entry, of all transactions in stock or certificates of indebtedness as specified in subparagraph (1) of this paragraph, whether the transaction is taxable or not. In the case of taxable transactions, the daily record shall show the amount of tax payable in respect of each transaction. In the case of nontaxable transactions, the daily record shall disclose the basis on which the exemption from the tax is claimed. Such daily records shall be kept in permanent form for a period of at least 3 years from the date any part of the tax is paid on the transaction and must be available for ready inspection by internal revenue officers.

(4) *Affixing and canceling of stamps.* The clearinghouse as agent shall affix and cancel on the bills or memoranda of sale documentary stamps in an amount applicable to the transactions covered by such bills or memoranda. Stamps shall be so affixed and canceled on the day on which the bills or memoranda of sale are received by the clearinghouse.

(5) *Records to be kept by clearinghouse.* The bills or memoranda of sale received from its members shall be kept in permanent form by the clearinghouse for a period of at least 3 years from the date any part of the tax is paid with respect to any transaction covered therein, and must be available for ready inspection by internal revenue officers.

(6) *Endorsement showing payment of tax.* The member shall make and deliver to the clearinghouse as agent for the buyer the bill or memorandum required by paragraph (b) of § 47.4352–1. The member may make an endorsement on certificates of stock or certificates of indebtedness covered by the bill or memorandum substantially in the following form:

> It is hereby certified that the Federal stamp tax applicable to the transfer of ---------- shares of this certificate (or applicable to the transfer of this certificate of indebtedness) has been paid through
> ----------
> (Insert name of clearinghouse for securities association or securities exchange)
> on our behalf.
> (Date) (Member ---------- Securities Association or Securities Exchange)

The endorsement (including a facsimile signature of the member) may be made by a hand-stamped impression, if (i) the hand-stamp is held at all times in the custody of the person authorized to make such impression, and (ii) the records of the member contain sufficient information to establish the identity of the person so authorized.

(c) *Definition of clearinghouse.* For the purposes of this section, the term "clearinghouse" includes every corporation, and every association of individuals, partnerships, or corporations, wholly or partly engaged in the business of clearing, settling or adjusting transactions in the purchase, sale, receipt, or delivery of stock, certificates of indebtedness, rights, or warrants, whether or not a part or department of a securities exchange or a securities association or an independent body.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; U.S.C. 7805))

[F.R. Doc. 65–2516; Filed, Mar. 15, 1965; 8:45 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 4—INFORMATION ON POSTAL MATTERS

PART 13—ADDRESSES

Miscellaneous Amendments

The regulations of the Post Office Department are hereby amended to update the list of general postal publications. Additionally, the illustrations of overseas military addresses are revised to show the new form adopted January 1, 1965. The amendments are as follows:

Part 4 amendment:

In § 4.2 *General postal publications*, as amended by 29 F.R. 9538, make the following changes:

1. Amend the price of the *Annual Report of the Postmaster General*, to read $0.75 instead of $0.70.

2. Amend the additional charge for foreign mailing of the *Directory of International Mail*—Without binder, to read $1.00 instead of $1.25.

3. Amend the price of the *Postal Laws* (looseleaf), to read $2.75 instead of $2.20.

NOTE: The corresponding Postal Manual sections are 114.21 and 114.22.

Part 13 amendment:

In § 13.8 *Overseas military mail*, as amended by 29 F.R. 3809–3811, make the following changes:

1. Amend the sample military addresses which appear in the Examples under paragraph (a) *Army and Air Force*, to read as follows:

Pvt. Willard J. Doe, RA32000000, Company F, 167th Infantry Regt., APO New York, 09801.

A/1c Harold F. Doe, AF15000000, 2d Bomb Squadron, APO New York, 09125.

2. Amend the sample military addresses which appear in the Examples under paragraph (b) *Navy and Marine Corps*, to read as follows:

John M. Doe, QMSN USN., USS Lyman K. Swenson (00729), FPO San Francisco, 96610.

Maj. John M. Doe, USMCR, Staff, Fleet Marine Force, Pacific, FPO San Francisco, 96610.

NOTE: The corresponding Postal Manual section is 123.8.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 508, 4365, 4453, 4555)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 65–2633; Filed, Mar. 15, 1965; 8:46 a.m.]

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Individual Country Regulations

The regulations of the Post Office Department respecting parcel post insurance fees and limits of indemnity regarding Great Britain and Northern Ireland are hereby amended to apply the insurance limit of $100 only to air parcel post mailed from and to American Samoa and the Trust Territory of the Pacific. Additionally, letter packages containing dutiable merchandise are now accepted to China (Taiwan) if registered. The amendments are as follows:

In § 168.5 *Individual country regulations*, make the following changes:

I. In country "Great Britain and Northern Ireland (England, Scotland, Wales and Channel Islands, and Northern Ireland)," amend the item *Insurance* under Parcel Post to read as follows:

Insurance. The following insurance fees and limits of indemnity apply, except that air parcel post for or from American Samoa and the Trust Territory of the Pacific (Caroline Islands, Marshall Islands, and Mariana Islands) may not be insured for more than $100,000:

Limit of indemnity:	*Fees*
Not over $10	$0.20
From $10.01 to $25	.25
From $25.01 to $50	.35
From $50.01 to $100	.55
From $100.01 to $200	.60
From $200.01 to $300	.65
From $300.01 to $400	.70
From $400.01 to $500	.75
From $500.01 to $600	.80
From $600.01 to $700	.85
From $700.01 to $800	.90
From $800.01 to $900	.95
From $900.01 to $1,000	1.00

Print on the wrapper, near the "Insured" endorsement and number, the amount for which the parcel is insured. This indication shall be shown in United States currency, in figures and in letters spelled out in full, in the following form:

INSURED VALUE

$76.89

SEVENTY-SIX DOLLARS AND EIGHTY-NINE CENTS

Every parcel containing coins, bullion, precious stones, and any article of gold, silver, or platinum must be insured.

Parcels containing jewelry must not have a value in excess of $1,000 ($100 when mailed as air parcel post from and to American Samoa and the Trust Territory of the Pacific). Any parcel containing jewelry or any other precious article exceeding $280 in value must be packed in a box measuring not less than 3 feet 6 inches in length and girth combined.

The final decision on all questions of compensation rests with the country in whose service the loss, rifling, or damage took place.

While parcels containing eggs, when properly packed, may be accepted for insurance to Great Britain and Northern Ireland, no indemnity is payable, in the event of damage, should it be determined that responsibility for the damage rests with the Postal Administration of Great Britain and Northern Ireland. Also regardless of where the damage occurred, no indemnity is payable for the damage to insured parcels, containing eggs, originating in Great Britain and Northern Ireland and addressed to this country.

For general information on insurance see Part 133 of this chapter.

II. In country "China," respecting the Republic of China, under Postal Union mail change *"Letter packages containing dutiable merchandise.* Not accepted" to read *"Letter packages containing dutiable merchandise.* Accepted if registered."

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 65–2634; Filed, Mar. 15, 1965; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER B—LAND TENURE MANAGEMENT (2000)

[Circular 2181]

PART 2240—SALES AND EXCHANGES

Subpart 2244—Exchanges

CERTAIN NATIONAL SEASHORES AND RECREATION AREA

Basis and purpose. The purpose of this amendment is to provide procedures for the acquisition by exchange of lands within the Fire Island National Seashore and within the Lake Mead National Recreation Area, and to require that all formal applications for exchange be accompanied by a statement of the appropriate Regional Director, National Park Service, that the proposal appears feasible.

These rules involve matters relating to agency procedure and are not required by law to be published as proposed rule making. This Department, nevertheless, customarily gives such notice and public procedure thereon. However, that practice is deemed unnecessary in this instance because the procedures to be established and the requirements on the public are similar to the procedures and requirements in other existing regulations. Accordingly, these rules shall become effective upon the date of publication in the FEDERAL REGISTER.

The language of § 2244.5–6(b)(2) is amended and two new sections are added as follows:

§ 2244.5–6 Point Reyes National Seashore, California.

* * * * *

(b) *Application.* * * *

(2) Formal application: Any person desiring to effect an exchange of lands hereunder must file an application, in duplicate, on a form approved by the Director, Bureau of Land Management, or its equivalent, describing the lands by metes and bounds or other proper description. However, if the selected lands are surveyed, they must be described by legal subdivisions of the public land surveys. The application must be accompanied by the notice received from Regional Director, National Park Service, required by paragraph (a) of this section, stating that the proposal appears feasible.

* * * * *

§ 2244.5–7 Fire Island National Seashore, New York.

(a) *Authority.* The act of September 11, 1964 (78 Stat. 928, 16 U.S.C. 459e) provides for the establishment of the Fire Island National Seashore, and authorizes the Secretary of the Interior to acquire land within its boundaries. He may accept title to any nonfederally owned land located within those boundaries and convey to the grantor any federally owned land under the jurisdiction of the Secretary. The lands so exchanged shall be approximately equal in fair market

value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the lands exchanged.

(b) All the provisions of § 2244.5–6 (b) through (g) shall apply to exchanges to acquire land within Fire Island National Seashore, N.Y. For the purposes of this section, where, in § 2244.5–6, reference is made to Point Reyes National Seashore, it shall be deemed to read "Fire Island National Seashore," and reference to the act of September 13, 1962 (76 Stat. 538, 16 U.S.C. 459c) shall be deemed to read "Act of September 11, 1964 (78 Stat. 928, 16 U.S.C. 459e)." Reference to the Regional Director, National Park Service, shall mean Director of the Northeast Region.

§ 2244.5–8 Lake Mead National Recreation Area, Ariz. and Nev.

(a) *Authority.* The act of October 8, 1964 (78 Stat. 1039, 16 U.S.C. 460n) establishes the boundaries of the Lake Mead National Recreation Area in the States of Arizona and Nevada and authorizes the Secretary of the Interior to revise those boundaries, subject to a designated acreage requirement, and to procure property within the exterior boundaries of the area in such manner as he considers to be in the public interest. In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within the boundaries of the recreation area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary. The properties so exchanged shall be approximately equal in fair market value, and the Secretary may accept cash from and pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(b) All the provisions of § 2244.5–6 (b) through (g) shall apply to exchanges to acquire land within the Lake Mead National Recreation Area, Arizona and Nevada. For the purposes of this section, where in § 2244.5–6, reference is made to Point Reyes National Seashore, it shall be deemed to read "Lake Mead National Recreation Area," and reference to the act of September 13, 1962 (76 Stat. 538, 16 U.S.C. 459c) shall be deemed to read "Act of October 8, 1964 (78 Stat. 1039, 16 U.S.C. 460n)." Reference to the Regional Director, National Park Service shall mean Director of the Southwest Region.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1955.

[F.R. Doc. 65-2644; Filed, Mar. 15, 1965; 8:47 a.m.]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3559]

[Sacramento 078772]

CALIFORNIA

Restoration From Water Power Withdrawal

1. In an order issued July 30, 1964 (DA-1040-California), the Federal Power Commission vacated the power withdrawals pertaining to the following-described lands pursuant to applications for Project No. 616:

MOUNT DIABLO MERIDIAN

T. 28 N., R. 7 E.,
Sec. 19, NE¼ of lot 2, W½ of lot 2, and W½NE¼NW¼.

The areas described aggregate 47.66 acres in the Lassen National Forest. The fractional lottings of lot 2 are now described in supplemental plat as lots 5, 6, and 8.

2. At 10 a.m. on April 14, 1965, the lands shall be subject to such forms of disposition as may by law be made of National forest land.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2636; Filed, Mar. 15, 1965; 8:46 a.m.]

[Public Land Order 3560]

[New Mexico 0349957]

NEW MEXICO

Excluding Lands From Carson National Forest

By virtue of the authority vested in the President by section 1 of the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The following described lands are hereby excluded from the Carson National Forest, and the boundaries of the said forest adjusted accordingly:

NEW MEXICO PRINCIPAL MERIDIAN

T. 26 N., R. 8 E.,
Sec. 8;
No. 5196—Tr. 1;
No. 5197—Tr. 1;
No. 1560—Tr. 1;
No. 4181;
No. 4167—Tr. 1;
No. 4175;
No. 782;
No. 1753—Tr. 3;
No. 4189—Tr. 2;
No. 3660—Tr. 4;
No. 3271—Tr. 4;
No. 4226—Tr. 2;
No. 3228—Tr. 3;
No. 4180—Tr. 6;
No. 4180—Tr. 5;
No. 4180—Tr. 4;
No. 3660—Tr. 2;
Sec. 8 and 17;
No. 3660—Tr. 1;
Sec. 17;
No. 3271—Tr. 3;
No. 3660—Tr. 3;
No. 4180—Tr. 3;
Sec. 16 and 17;
No. 3228—Tr. 1, also 3242;
No. 1559;
No. 4226—Tr. 1;
No. 4217—Tr. 1;
No. 3228—Tr. 2;
Sec. 17;
No. 2604—Tr. 3;
No. 4180—Tr. 2;
Sec. 8;
No. 2604—Tr. 1;
No. 4217—Tr. 2;
No. 4188—Tr. 1;
No. 1753—Tr. 4;
No. 1555—Tr. 1;
No. 2603—Tr. 2;
No. 4217—Tr. 4;
No. 4215—Tr. 4;
No. 4215—Tr. 2;
No. 1164;
No. 1555;
No. 1158—Tr. 2;
No. 4216—Tr. 3;
No. 2603—Tr. 1;
No. 2604—Tr. 5;
No. 2604—Tr. 4;
No. 4217—Tr. 3;
No. 3222—Tr. 2;
No. 3271—Tr. 5;
No. 4215—Tr. 3;
No. 810—Tr. 3;
No. 4216—Tr. 2;
No. 1556—Tr. 2;
Sec. 8 and 17;
No. 3271—Tr. 2;
No. 3271—Tr. 1;
Sec. 16 and 17;
No. 1560—Tr. 3;
No. 3221—Tr. 1;
No. 810—Tr. 2;
No. 2604—Tr. 2;
No. 1158—Tr. 1;
Sec. 17;
No. 3222—Tr. 1;
No. 835—Tr. 2;
Sec. 8;
Lot 13;
Lot 9 That Portion east of a line beginning at the south ¼ corner of section 8 and running in a northerly direction to the north ¼ corner of section 8, but terminating with its intersection with the south boundary of Claim No. 4175;
Sec. 17;
Lots 2 and 3.
T. 22 N., R. 12 E.,
Secs. 7, 8, 9, 16, 17, 18 (unsurveyed);
Those portions within the Llano-Santa Barbara Tract as shown on Plat accepted February 7, 1927;
Sec. 21 (Unsurveyed);
Those portions within the Llano-Santa Barbara Tract which when surveyed, will be undetermined lots or subdivisions now described as the NW¼NE¼, SW¼NE¼, N½NW¼, and E½SE¼NW¼;
Sec. 9 (surveyed);
Lot 1;
Sec. 10 (surveyed);
Lots 1, 2, and 3;
Sec. 15 (surveyed);
Lots 1, 2, 3, 4;
Sec. 16 (surveyed);
Lots 1, 2, 3, 4;
Sec. 21 (surveyed);
Lots 1, 2, 3, N½ Lot 4;
Sec. 22 (surveyed);
Lots 1, 2, 3, and N½ of Lot 4;
Sec. 10 (partially unsurveyed);
All, except lots 1, 2, and 3;
Sec. 11 (unsurveyed);
SW¼;
Sec. 14 (unsurveyed);
W½;
Sec. 15 (partially unsurveyed);
All, except surveyed lots 1, 2, 3, and 4;
Sec. 22 except surveyed lots 1, 2, 3, and 4;
W½ 23; NW¼ 26, and NE¼NE¼ 27: those portions within the area known as the "People's Land" as set out by decree of the District Court of the First Judicial District of the Territory of New Mexico under date of November 12, 1903, and by Exchange Survey No. 518.

The areas described aggregate approximately 5,353.93 acres, much of which is patented land.

2. This order shall not otherwise become effective to change the status of the public lands until 10 a.m. on April 14, 1965. On and after that date and hour the lands shall become subject to appli-

cation, petition and selection, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 14, 1965, shall be considered as simultaneously filed at that time. Those filed thereafter shall be considered in the order of filing.

Most of the lands are improved and are occupied by persons who claim some right, title or interest in and to the lands by reason of the long use and occupancy by them and their predecessors in interest.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, N. Mex.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2637; Filed, Mar. 15, 1965; 8:46 a.m.]

[Public Land Order 3561]

[Anchorage 061697]

ALASKA

Partly Revoking Air Navigation Site Withdrawal No. 173

By virtue of the authority contained in section 4 of the Act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. The departmental order of December 31, 1941, creating Air Navigation Site Withdrawal No. 173, is hereby revoked so far as it affects the following-described lands:

U.S. SURVEY 3758

Lot. 1, that portion lying southerly of a line extending 60 feet south from and parallel to the State of Alaska Glacier Highway.

Containing 5.39 acres.

The lands are about 12 miles northwest of Juneau. They are high, well drained, and have a cover of spruce.

2. Until 10 a.m. on June 8, 1965, the State of Alaska shall have a preferred right to select the lands as provided by the Act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b) and section 6g of the Act of July 7, 1958 (72 Stat. 339). After that date and hour the lands shall become subject to settlement and to application, petition, location and selection generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 14, 1965, shall be considered as simultaneously filed at that time. Those filed thereafter shall be considered in the order of filing.

3. The lands have been open to applications and offers under the mineral leasing laws. They will be open to location under the United States mining laws after 10 a.m. on June 8, 1965.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Anchorage, Alaska.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2638; Filed, Mar. 15, 1965; 8:46 a.m.]

[Public Land Order 3562]

[Idaho 014791]

IDAHO

Partial Revocation of Certain Reclamation Withdrawals

By virtue of the authority contained in section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

1. Public Land Orders No. 2588 of January 15, 1962, and No. 2659 of April 23, 1962, which withdrew lands for use of the Bureau of Reclamation in connection with the Mountain Home Division, Snake River Project, are hereby revoked so far as they affect the following-described lands:

BOISE MERIDIAN, IDAHO

T. 1 N., R. 2 W.,
Sec. 21, NE¼NW¼NW¼, and SE¼NW¼;
Sec. 28, W½NE¼, and S½NW¼;
Sec. 29, S½NE¼;
Sec. 32, S½NE¼, and SE¼;
Sec. 33, W½SW¼.
T. 2 N., R. 2 W.,
Sec. 31, lots 1 and 3, SW¼NE¼.
T. 1 N., R. 3 W.,
Sec. 4, S½SW¼;
Sec. 5, lots 2, 3, and 4, S½NE¼, S½NW¼, E½SW¼, and SE¼;
Sec. 8, N½NE¼;
Sec. 9, N½NW¼;
Sec. 15, S½SW¼;
Sec. 22, NE¼NW¼;
Sec. 25, SW¼NW¼;
Sec. 26, NW¼NE¼, SE¼NE¼, and NE¼NW¼.
T. 2 N., R. 3 W.,
Sec. 10, NE¼SE¼;
Sec. 11, SW¼NW¼, and NW¼SW¼;
Sec. 17, SE¼NW¼, N½NW¼SE¼, and SE¼SE¼;
Sec. 19, lot 3, and NE¼SW¼;
Sec. 21, W½E½, and E½W½;
Sec. 25, NW¼SW¼;
Sec. 27, W½NW¼, and SW¼;
Sec. 28, N½, NE¼SW¼, and SE¼;
Sec. 29, NE¼NW¼;
Sec. 30, lot 3, NE¼SW¼, and SE¼SW¼;
Sec. 31, SW¼NE¼, SE¼NW¼, and SE¼;
Sec. 32, SW¼.
T. 2 N., R. 4 W.,
Sec. 25, SE¼NE¼.
T. 1 S., R. 2 W.,
Sec. 3, lot 4;
Sec. 4, lots 3 and 4, S½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 5, lot 1.

The areas described total in the aggregate 4,057.31 acres.

2. The lands are scattered parcels in the southern part of Canyon County, Idaho. They vary greatly as to surface relief and soil quality. Vegetation consists of sagebrush and native desert grasses.

3. The following-described lands, which are a part of those described in paragraph 1, above, are withdrawn by Public Land Order No. 726 of June 26, 1951, for a National Guard target range and are, therefore, not subject to the opening provisions of this order:

BOISE MERIDIAN

T. 2 N., R. 3 W.,
Sec. 21, W½E½ and E½W½;
Sec. 27, SW¼;
Sec. 28, N½, NE¼SW¼, and SE¼;
Sec. 29, NE¼NW¼.

The areas described aggregate 1,040 acres.

4. Subject to any valid existing rights and equitable claims, the requirements of applicable law, and the provisions of any existing withdrawals, the lands are hereby opened to filing of applications and selections. All valid applications and selections under the nonmineral public land laws presented at or prior to 10 a.m. on April 14, 1965, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

5. The lands have been open to applications and offers under the mineral leasing laws. They will be open to location under the United States mining laws at 10 a.m. on April 14, 1965.

6. Persons claiming preference rights based upon valid settlement, statutory preference or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

7. The State of Idaho has waived the preference right of application granted by R.S. 2276, as amended (43 U.S.C. 852).

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2639; Filed, Mar. 15, 1965; 8:46 a.m.]

[Public Land Order 3563]

[Anchorage 061683]

ALASKA

Revoking Public Land Order No. 823 of May 9, 1952

By virtue of the authority vested in the President by section 2380 of the Revised Statutes (43 U.S.C. 711) and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 823 of May 9, 1952, withdrawing the following-described lands for townsite purposes, is hereby revoked:

COPPER RIVER MERIDIAN

T. 4 N., R. 1 W.,
Sec. 19, SE¼;
Sec. 20, SW¼;
Sec. 29, NW¼;
Sec. 30, NE¼.

The areas described aggregate 640 acres.

2. Until 10 a.m. on June 8, 1965, the State of Alaska shall have a preferred right to select the lands as provided by the Act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b), and section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), and the regulations in 43 CFR 2222.9.

3. This order shall not otherwise become effective to change the status of the lands until 10 a.m. on June 8, 1965. At that time the lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 14, 1965, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands will be open to location under the United States mining laws at 10 a.m. on June 8, 1965.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Anchorage, Alaska.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2640; Filed, Mar. 15, 1965; 8:47 a.m.]

[Public Land Order 3564]

[Miscellaneous 88650]

ALASKA

Excluding Small Tracts From National Forests

By virtue of the authority vested in the President by section 1 of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Subject to existing valid rights the following-described tracts, occupied by holders of permits issued by the Department of Agriculture are hereby excluded from the national forest indicated:

A. Chugach National Forest:
(1) Lot 3, U.S. Survey 3532, 1.34 acres.
(2) Lot 2, U.S. Survey 4607, 0.79 acre.
B. Tongass National Forest:
(1) Lot 18, Tract A, U.S. Survey 3305, 1.32 acres.
(2) Lot Q, U.S. Survey 3590, 0.34 acre.
(3) Lot A-1, U.S. Survey 3590, 0.22 acre.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2641; Filed, Mar. 15, 1965; 8:47 a.m.]

[Public Land Order 3565]

[Washington 05342]

WASHINGTON

Power Site Cancellation No. 215; Partly Cancelling Power Site Classification No. 408

By virtue of the authority contained in the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) as amended, it is ordered as follows:

1. The order of the Geological Survey of May 19, 1950, creating Power Site Classification No. 215, is hereby cancelled so far as it affects the following-described lands:

WILLAMETTE MERIDIAN

T. 35 N., R. 43 E.,
Sec. 12, lot 1.
T. 38 N., R. 43 E.,
Sec. 29, lots 4, 5, and 8.
T. 34 N., R. 44 E.,
Sec. 17, SW¼NW¼, NW¼SW¼.

The areas described aggregate approximately 222 acres in Pend Oreille County.

2. In its order issued June 8, 1964 (DA-193-Washington) the Federal Power Commission vacated the withdrawal for Project No. 2042 so far as it affects the following-described lands:

KANIKSU NATIONAL FOREST

WILLAMETTE MERIDIAN

T. 34 N., R. 44 E.,
Sec. 17, SW¼NW¼, NW¼SW¼.

3. At 10 a.m. on April 14, 1965, the lands described in paragraph 2 of this order shall be subject to such forms of disposition as may by law be made of national forest lands. The remaining lands covered by this order are withdrawn for Project 2042.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oreg.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2642; Filed, Mar. 15, 1964; 8:47 a.m.]

[Public Land Order 3566]

[Oregon 014990]

OREGON

Reclamation Withdrawal; Baker Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (Ch. 2, 30 U.S.C.), but not from leasing under the mineral leasing laws, and reserved for the Upper Division, Baker Project:

WILLAMETTE MERIDIAN

Whitman National Forest

T. 10 S., R. 38 E.,
Sec. 14, SW¼NW¼, S½;
Sec. 24, N½NW¼, SE¼NW¼, NW¼SE¼, S½SE¼;
Sec. 25, N½NE¼, SE¼NE, NW¼NW¼;
Sec. 26, NE¼NE¼;
Sec. 28, N½NE¼, NE¼NW¼.

Public Lands

Sec. 23, NW¼NE¼.

The areas described aggregate 960 acres in Baker County.

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

MARCH 9, 1965.

[F.R. Doc. 65-2643; Filed, Mar. 15, 1965; 8:47 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

[CGFR 65-5]

SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

Recreational Boating Activities

The marine safety activities of the Coast Guard have been developed into two broad areas; i.e., one for the commercial merchant marine and the other for recreational boating. In the past these activties have been administered through the Office of Merchant Marine Safety at Coast Guard Headquarters and the Merchant Marine Safety Divisions in the respective District Commanders' Offices and by the Officers in Charge, Marine Inspection, at the local levels. In order to improve administration, the Coast Guard Headquarters organization has been changed. There has been established a Recreational Boating Safety Division in the Office of Operations and there have been transferred to such Division all the functions of marine safety related to recreational boating formerly performed by the Office of Merchant Marine Safety. In addition, those functions related to appeals to the Commandant from monetary penalties assessed by the District Commanders were transferred to the Chief Counsel from the Office of Merchant Marine Safety. These changes in organization are described in the amendments to 46 CFR 1.01 and 1.05 in this document.

As the changes to 46 CFR 1.01 and 1.05 reflect Coast Guard organization, internal practices and procedures, 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 exempted by specific provisions in section 4 of this Act (5 U.S.C. 1003).

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), as well as by the specific laws cited with the regulations below, the following regulations and amendments are prescribed and shall become effective on the date of publication in the FEDERAL REGISTER:

1. Section 1.01(b) is amended by revising subdivision (1) (ii) and by adding subparagraphs (2) and (3), reading as follows:

§ 1.01 Organization.

* * * * *

(b) (1) * * *

(ii) The Chief, Merchant Vessel Inspection Division, at Headquarters, under the direction of the Chief, Office of Merchant Marine Safety, administers the inspection program for merchant vessels and the program of enforcing and improving merchant marine material and operational safety standards, and reviews and maintains records of marine casualties other than recreational boating accidents.

* * * * *

(2) The Chief, Office of Operations, under the general direction of the Commandant, directs, supervises, and coordinates the activities of the Chief, Recreational Boating Safety Division, located at Headquarters; and supervises through the District Commanders the administration of the recreational boating safety program.

(i) The Chief, Recreational Boating Safety Division, at Headquarters, under the direction of the Chief, Office of Operations, administers the enforcement program applicable to uninspected vessels used for recreational purposes and the imposition and collection of penalties in connection therewith; supervises the Federal numbering of undocumented vessels; reviews applications for approval of State numbering systems as required by Title 46, U.S. Code, section 527a; maintains liaison with Federal and State agencies having related interest; develops and coordinates arrangements with State Governments for cooperation in the enforcement of State and Federal laws relating to recreational boating; administers the boating accident report program and compiles, analyzes and publishes the data thus obtained, together with recommendations for the enhancement of boating safety; and reviews and maintains records of recreational boating accidents.

(3) The Chief Counsel of the Coast Guard at Headquarters, under the general direction and supervision of the General Counsel, Department of the Treasury, and the Commandant, considers cases involving alleged violations of navigation and vessel inspection laws or regulations prescribed thereunder and published in this chapter or in 33 CFR Chapter I, and reviews appeals to the Commandant from statutory monetary penalties assessed therefor. Upon completion of such a review, the Chief Counsel prepares a proposed action for the Commandant's consideration or, in appropriate cases, he takes final action on behalf of, and as directed by, the Commandant.

2. Section 1.05(a) is amended by revising subparagraph (1) and by adding subparagraph (2), reading as follows:

§ 1.05 Organization; districts.

(a) * * *

(1) The Chiefs, Merchant Marine Safety Division, in the District Offices, under the supervision of their respective District Commanders, direct the activities in their districts relative to vessel, factory and shipyard inspections; reports and investigations of marine casualties and accidents; processing of violations of navigation and vessel inspection laws; the licensing, certificating, shipment and discharge of seamen; the investigation and institution of proceedings looking to suspension and revocation under Title 46, U.S. Code, sections 239 and 239b, of licenses, certificates, and documents held by persons; and all other marine safety regulatory activities except those functions related to recreational boating when under the supervision of the Chiefs, Operations Division, in the District Offices.

(2) Unless otherwise provided for, the Chiefs, Operations Division, in the District Offices, under the supervision of their respective District Commanders, direct the activities in their districts relative to administration of the law enforcement program applicable to uninspected vessels used for recreational purposes and the imposition and collection of penalties in connection therewith; maintain liaison with Federal and State agencies having related interests; develop and coordinate agreements and arrangements with Federal and State agencies for cooperation in the enforcement of State and Federal laws related to recreational boating; and review investigative reports of recreational boating accidents.

* * * * *

(Sec. 633, 63 Stat. 545, R.S. 4405, as amended, and 4462, as amended, 14 U.S.C. 633, 46 U.S.C. 375, 416. Interpret or apply R.S. 4450, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 1–12, 60 Stat. 237–244, secs. 1, 2, 68 Stat. 484, sec. 3, 68 Stat. 675, sec. 3, 70 Stat. 152; 46 U.S.C. 239, 367, 239a, 239b, 390b, 5 U.S.C. 1001–1011, 50 U.S.C. 198. Treasury Dept. Orders 120, July 31, 1950, 15 F.R. 6521; 167–9, August 3, 1954, 19 F.R. 5195; 167–14, Nov. 26, 1954, 19 F.R. 8026; 167–17, June 29, 1955, 20 F.R. 4976; 167–20, June 18, 1956, 21 F.R. 4894)

Dated: March 9, 1965.

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

[F.R. Doc. 65–2654; Filed, Mar. 15, 1965; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15405; FCC 65–172]

PART 73—RADIO BROADCAST SERVICES

Transmission Standards

In the matter of amendment of § 73.682 of the Commission's rules and regulations to specify that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter.

Report and order. 1. The Commission, on April 2, 1964, issued a notice of proposed rule making (FCC 64–300) in the above-entitled matter. Interested parties were invited to submit comments on or before June 10, 1964; reply comments, on or before June 25, 1964. This action came about as the result of earlier proceedings (Docket Nos. 14229 and 15208) in which the rules were amended to allow TV broadcast stations to operate with aural powers of as little as 10 percent of the visual peak radiated power. The earlier actions left the upper aural power limit at 70 percent of the visual power. In petitions for reconsideration, some of the TV receiver manufacturers urged, among other things, the Commission to reduce the range of permissible aural power to ease certain receiver design problems.

2. In response to a petition filed by the Electronic Industries Association (EIA), the Commission, on June 12, 1964, extended the time for filing comments and reply comments to July 10, 1964, and July 25, 1964, respectively. On July 13, 1964, a further extension requested by EIA was granted and time for filing comments and reply comments was extended to August 25 and September 11, 1964, respectively. All comments and replies have now been carefully reviewed and have been given consideration in formulating the action announced herein.

3. Comments were received from the Radio Corporation of America, A. Earl Cullum, Jr., and Associates; Wells-Gardner Electronics Corp.; Columbia Broadcasting Corp.; Zenith Radio Corp.; Crosley Broadcasting Corp.; Time-Life Broadcast, Inc.; American Broadcasting Co.; King Broadcasting Co.; Meredith Broadcasting Co.; a group of twelve broadcasting entities represented by the firm of Haley, Bader & Potts; Philco Corp.; the Committee for the Full Development of All-Channel Broadcasting; Springfield Broadcasting Corp.; EIA; Western Auto Supply Co.; and the Gerity Broadcasting Co. King and Meredith also filed reply comments.

4. In the notice of proposed rule making in the present proceeding issued April 2, 1964, it was stated that "after an exhaustive study * * * the Commission is satisfied that operation with aural power of 10 percent of the peak visual power is feasible and advantageous." Since that time, a considerable number of television broadcast stations in both VHF and UHF bands, with Commission approval, have experimented with operation at reduced aural power, including the 10 percent level. No substantial degradation of service to the audience of these stations has been reported. Accordingly, the feasibility and desirability of maintaining the 10 percent lower limit is considered to have been well established. The burden of the present proceeding (Docket 15405), then, is to determine the permissible upper limit for aural power, taking into account the apparent desirability for restricting the permissible range to some convenient value, and other pertinent factors.

5. For reasons discussed in the notice of proposed rule making, we proposed an upper limit of 20 percent; comments received to date provide no compelling reason for adopting some other value. CAB and EIA suggested that a range of ratios between 20 percent and 30 percent was acceptable. They refer to certain tests

conducted by receiver manufacturers which indicates that, on extremely marginal signals, an aural-to-visual ratio of less than about 20 percent to 30 percent would produce a degraded aural service to a substantial fraction of receivers in fringe areas. However, a majority of receiver manufacturers participating in the preparation of the EIA comments approved of ratios as low as 20 percent.

6. Several of those commenting on the proposal expressed a view that no reduction in the present upper limit (70 percent) should be undertaken until after further data has been obtained which would support such a reduction. We are of the view that the results of actual on-the-air tests conducted by numerous television stations during the past year do in fact supply the desired data. It does not seem that further postponement of action in this proceeding in order to conduct additional tests is justified.

7. We find that practical experience and theoretical considerations support the practicability and desirability of permitting television broadcast stations to use aural power as little as 10 percent of visual power. We find that, in the interests of achieving economy in receiver design, the range of permissible aural-to-visual power ratios should be reduced from the present range of 10 percent to 70 percent. We further find that the proposed permissive range of aural-visual power ratios, 10 percent to 20 percent, is a reasonable range which will achieve the advantages of a low ratio while at the same time permitting an individual broadcaster to raise aural power 3 decibels above the minimum if circumstances so indicate.

8. *Accordingly, it is ordered,* That effective April 19, 1965 § 73.682(a)(15) of the Commission's rules is amended to read as follows:

§ 73.682 Transmission standards and changes.

(a) *Transmission standards.* * * *

(15) The effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter.

NOTE: Existing licensees presently authorized an aural effective radiated power greater than 20 percent of the peak visual effective radiated power may continue to so operate until March 1, 1966.

* * * * *

9. Authority for the amendment adopted herein is contained in § 4(i) and 303(c) of the Communications Act of 1934, as amended.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: March 10, 1965.

Released: March 11, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-2665; Filed, Mar. 15, 1965; 8:48 a.m.]

[FCC 65-173]

PART 95—CITIZENS RADIO SERVICE

Operation by Class A Stations in Certain Frequency Bands

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 10th day of March 1965:

Order. The Commission having under consideration § 95.41(e) of its rules which provides that Class A stations in the Citizens Radio Service may operate in the frequency band 460–461 Mc/s until March 31, 1965; and

It appearing, that the utilization of the frequency band 460–461 Mc/s is under consideration in rule-making Docket No. 13847; and

It further appearing, that it is in the public interest to amend § 95.41(e) to permit the continued operation in the frequency band 460–461 Mc/s by Class A stations in the Citizens Radio Service, upon proper application therefor, until March 31, 1966; and

It further appearing, that due to the imminence of the date for termination of operation in the 460–461 Mc/s band and in order to afford persons a reasonable opportunity to submit applications for continued operation therein, compliance with the provisions for notice and public procedure for the amendment adopted herein would be impracticable; and

It further appearing, that the amendment adopted herein relieves an existing restriction and therefore, may be made effective immediately; and

It further appearing, that authority for the issuance of this rule is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended;

It is ordered, That effective March 15, 1965, § 95.41(e) of Part 95 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: March 11, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 95 is amended as follows:

1. Section 95.41(e) is amended to read as follows:

§ 95.41 Frequencies available.

* * * * *

(e) Upon specific request accompanying application for renewal of station authorization, a Class A station in this service, which prior to March 31, 1965, operated on a frequency in the 460–461 Mc/s band, may be assigned that frequency for continued use until not later than March 31, 1966, subject to all other provisions of this part.

[F.R. Doc. 65-2666; Filed, Mar. 15, 1965; 8:48 a.m.]

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[1] Commissioners Hyde and Bartley absent.

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Parts 114, 122]

INTERNATIONAL MAIL PACKAGES

Storage Charges

Notice is hereby given of proposed rule making consisting of proposed amendments to § 114.1(d) and § 122.1(c) of Title 39, Code of Federal Regulations for the purpose of increasing the storage charge from 10 to 15 cents per day on postal union printed matter packages, commercial papers packages and small packets exceeding 1 pound in weight, and on parcel post packages from other countries held in post offices awaiting acceptance by addressees. The storage fee will also be applicable to any incoming dutiable letter package (not previously charged storage), regardless of the weight of the package. The free storage period for such packages will be reduced from 10 to 5 work days. After expiration of the free storage period, the 15-cent storage charge will be collected for each day thereafter that a package is on hand including Saturdays, Sundays, legal holidays, and the actual day of delivery.

Although the procedures in 39 CFR 114.1(d) and 122.1(c) relate to a proprietary function of the Government, it is the desire of the Postmaster General voluntarily to observe the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003) in order that patrons of the postal service may have an opportunity to present written views concerning the procedures. Accordingly, such written views may be submitted to the Director, International Services Division, Bureau of Transportation and International Service, Post Office Department, Washington, D.C., 20260, at any time prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

The proposed amendments to the regulations cited above are as follows:

In § 114.1 *Charges*, paragraph (d) is amended to read as follows:

§ 114.1 Charges.

* * * * *

(d) *Storage.* The post office will collect 15 cents for each day until delivery is made, beginning on the sixth working day after first delivery attempt has been made or first notice of available delivery has been issued to the addressee, of (1) any package exceeding one pound in weight classed as printed matter, commercial papers or small packet, and (2) any dutiable letter package regardless of weight. The conditions prescribed in § 122.1(c) of this chapter for incoming parcel post packages also apply to the foregoing.

* * * * *

NOTE: The corresponding Postal Manual section is 224.14.

In § 122.1 *Charges*, as amended by 29 F.R. 3520, paragraph (c) is amended to read as follows:

§ 122.1 Charges.

* * * * *

(c) *Storage.* The post office will collect 15 cents for each day until delivery is made, beginning on the sixth working day after first delivery attempt has been made or first notice of available delivery has been issued to the addressee. The days on which the office is closed for business will not be counted in determining the 5-day free storage period. However, after expiration of the free storage period, the 15-cent storage charge will be collected for each day thereafter that a package is on hand. This includes Saturdays, Sundays, national holidays, and the day on which delivery is effected. When a parcel is returned to the post office after the first delivery attempt, or when a notice that the package is available for delivery is sent to the addressee, mark on the wrapper "Storage charges begin _____" and insert the date when the charges will begin to accrue. Rubber stamp item R–1300–296 is available for this purpose to post offices of the first and second classes.

The charges are accounted for by affixing postage-due stamps to the parcel or to a postage-due bill and canceling. The same charge is applied on packages requiring formal customs entry that are held in post office custody or on post office premises awaiting customs clearance. For formal entry parcels, the charge will begin on the sixth working day after the date on which notice on Customs Form 3509 is mailed to the consignee (addressee), or on the sixth working day after receipt of the parcel at the office where it is to receive formal customs treatment if the customs notice has been issued at another customs port. Cooperation of customs officers should be solicited to enable post offices to collect any storage charges which may accrue on formal entry parcels. When an addressee protests the rate or amount of duty assessed (see § 151.5(d)(5) of this chapter), the time required for the Customs Service to come to a decision in the matter is not counted. See § 122.5(b)(1)(v) concerning collection of storage charges on parcels held beyond the usual retention period, and § 122.5(b)(4) regarding the marking of undeliverable parcels on which storage charges are due.

* * * * *

NOTE: The corresponding Postal Manual section is 232.13.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 65–2635; Filed, Mar. 15, 1965; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 52]

PICKLES

U.S. Standards for Grades [1]

Notice is hereby given that the United States Department of Agriculture is considering a revision to the United States Standards for Grades of Pickles (7 CFR 52.1681–52.1699) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621–1627)). This revision, if made effective, will be the third issue by the Department of grade standards for this product.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate, not later than one year after publication hereof in the FEDERAL REGISTER, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, where they will be available for public inspection during official hours of business (paragraph (b) of § 1.27, as amended at 29 F.R. 7311).

Statement of consideration leading to the proposed revision of the standards. The current U.S. grade standards which have been in effect since 1954 cover only the quality characteristics of cured-type pickles. Since that time, "fresh-pack" pickles have gained prominence in marketing and it is estimated that about 35 percent of the entire U.S. pack of pickles now is produced commercially as "fresh-pack" type. In this process, instead of using cucumber stock which has been cured by a natural fermentation process, the cucumbers are packed shortly after harvesting and without curing.

At the specific request of the Pickle Packers International, Inc., consideration was given to describing the quantity of useable product in terms of a percentage of the volumetric fill rather than as drained weight. Among the reasons given were that in the pickle industry, trading is traditionally based on volume rather than on weight and that production controls are set on this basis. For these reasons and because of the range of the density of the various products the quantity of pickle ingredient is, in most instances, designated in the proposed revised standards as a percentage of the declared volume.

The percentage of declared volume is not readily determinable for pickle relish, a finely chopped product. The ratio of the drained weight, therefore, to the declared volume of the container

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

is used in describing the minimum quantity of pickle ingredient in connection with pickle relish.

During the past several years, meetings with representative groups of pickle packers and field studies made by the Department in cooperation with the industry have brought out needs for improvement in the grade standards and pointed toward the solutions which are proposed herein.

The proposed revised grade standards contain the following major provisions which differ from the currently effective standards:

(1) The inclusion of the fresh-pack type with specific requirements for this type only;

(2) Revised definitions of styles to include variations such as corrugated slices or crinkle-cuts;

(3) The designation of the amount of useful product (in most sub-types) in terms of percentages of the declared volume rather than in drained weights;

(4) A realignment of the score points to allow 10 points in each grade to conform to current practice in most other U.S. grade standards for processed fruits and vegetables.

The proposed revision is as follows:

PRODUCT DESCRIPTION AND STYLES

AUTHORITY: The provisions of this subpart issued under secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

PRODUCT DESCRIPTION, STYLES

§ 52.1681 Product description.

"Pickles" for the purposes of this subpart means the pickled product prepared entirely or predominantly from cucumbers (Cucumis sativus L.). The product is prepared from clean, sound, fresh immature ingredients which have been processed or preserved by or with suitable seasoning, flavoring, vegetable, or any other ingredient(s) permissible under the Federal Food, Drug, and Cosmetic Act. The pickles are properly prepared, sufficiently processed, or maintained under conditions to assure preservation of the product.

§ 52.1682 Styles of pickles.

(a) "Whole" means pickles consisting of whole cucumbers. It may refer to other vegetables, such as whole onions, which may be included in other than "Whole" style.

(b) "Sliced crosswise" or "cross cut" means cut transversely to the longitudinal axis into slices of approximately uniform thickness with flat-parallel or corrugated-parallel surfaces.

(c) "Sliced lengthwise" means cut longitudinally into halves, quarters or other triangular shapes, or otherwise into units with parallel surfaces.

(d) "Cut" means cut into units which are not uniform in size or shape and which do not conform to the whole, sliced crosswise, or sliced lengthwise style of pickles; and may refer to other vegetables cut or broken into units which are not uniform in size or shape.

(e) "Finely cut" means finely cut or finely chopped, such as in pickle relish.

TYPES OF PACK

§ 52.1683 Cured type.

Pickles of cured type are cured by natural fermentation in a solution of salt (NaCl) with or without the addition of dill herbs and are processed or preserved in a liquid medium which may be seasoned with salt, suitable nutritive sweetener(s), vinegar(s), spices, flavoring(s), onions, garlic, and any other suitable seasoning(s) or flavoring(s) to give the product a characteristic flavor; and may be packed with the addition of any other permitted ingredient(s). This type may be preserved with or without the addition of other pickled vegetables which have been cured by natural fermentation or treated by other means and may be sufficiently processed by heat in hermetically sealed containers.

(a) *Dill pickles (natural or genuine).* Dill pickles (natural or genuine) are cured in a solution of salt (NaCl) with dill herb, with or without dill flavoring and are packed in a vinegar or lactic acid solution containing salt and/or curing salt brine, with or without additional spices, spice flavoring(s), or other seasoning or flavoring ingredient(s). Dill herb or other herbs may be added.

(b) *Dill pickles (processed).* Dill pickles (processed) are cured in a solution of salt (NaCl) and are packed in a vinegar solution containing salt and dill flavoring(s). Other seasoning or flavoring ingredient(s), dill herb, and other herbs may be added.

(c) *Sour pickles.* Sour pickles are cured pickles packed in a vinegar solution containing salt (NaCl) and to which may be added spices, spice flavoring(s), or other seasoning or flavoring ingredient(s).

(d) *Sweet pickles.* Sweet pickles are cured pickles packed in a vinegar solution containing salt (NaCl) and suitable nutritive sweetening ingredient(s), and to which may be added spices, spice flavoring(s), or other seasoning of flavoring ingredient(s).

(e) *Sour mixed pickles.* Sour mixed pickles are cured pickles, of any style or combination style other than finely cut style, which contain whole or cut onions and cut cauliflower and which may include carrots, celery, tomatoes, cabbage, olives; red, green, or yellow peppers or pimientos or pieces thereof; and are packed in a vinegar solution containing salt (NaCl), and to which may be added spices, spice flavoring(s), or other seasoning or flavoring ingredient(s). Sour mixed pickles consist of pickle ingredients in the proportions outlined in Table I.

(f) *Sweet mixed pickles.* Sweet mixed pickles are cured pickles, of any style or combination style other than finely cut style, which contain whole or cut onions and cut cauliflower and which may include tomatoes, cabbage; and red, green, or yellow peppers or pimientos or pieces thereof; and are packed in a vinegar solution containing salt (NaCl) and suitable nutritive sweetening ingredient(s), and to which may be added spices, spice flavoring(s), or other seasoning or flavoring ingredient(s). Sweet mixed pickles consist of pickle ingredients in the proportions outlined in Table I.

(g) *Sour chow-chow pickles.* Sour chow-chow pickles are cured pickles of the same styles and ingredients as sour mixed pickles, except that instead of liquid solution they are packed in a mustard sauce of proper consistency. Sour chow-chow pickles consist of pickle ingredients in the proportions outlined in Table I of this subpart.

(h) *Sweet chow-chow pickles.* Sweet chow-chow pickles are cured pickles of the same styles and ingredients as sweet mixed pickles, except that instead of liquid solution they are packed in a sweetened mustard sauce of proper consistency. Sweet chow-chow pickles consist of pickle ingredients in the proportions outlined in Table I of this subpart.

(i) *Sour pickle relish.* Sour pickle relish consists of cured, finely cut cucumber pickles and may include other finely cut vegetable ingredients such as onions, cauliflower, cabbage, green tomatoes; red, green, or yellow peppers; or pimientos; packed in a vinegar solution containing salt and to which may be added spices, spice flavoring(s), or other seasoning or flavoring ingredient(s). Sour pickle relish consists of pickle ingredients outlined in Table I of this subpart.

(j) *Sweet pickle relish.* Sweet pickle relish consists of cured, finely cut cucumber pickles and other finely cut vegetable ingredients such as onions, cauliflower, cabbage, green tomatoes; red, green, or yellow peppers; or pimientos; packed in vinegar solution containing salt and suitable nutritive sweetening ingredient(s), to which may be added spices, spice flavoring(s), or other seasoning or flavoring ingredient(s). Sweet pickle relish consists of pickle ingredients outlined in Table I of this subpart.

§ 52.1684 Fresh-pack type.

Pickles of fresh-pack type are prepared from uncured unfermented cucumbers; and, except for dietetic pack, are packed in a vinegar solution containing salt (NaCl) with or without the addition of dill herbs and which may be seasoned with suitable nutritive sweetening ingredient(s), spices, spice flavoring(s), onions, garlic, and any other suitable seasoning(s) or flavoring(s) to give the product a characteristic flavor of fresh-pack type; and may be packed with the addition of any other permitted ingredient(s). Pickles of this type may be packed with or without the addition of other cured or uncured vegetables. They are sufficiently processed by heat to assure preservation of the product in hermetically-sealed containers.

(a) *Fresh-pack dill pickles.* Fresh-pack dill pickles are packed in a vinegar solution containing salt (NaCl) and dill flavoring and/or dill or other herb(s), spices, spice flavoring(s), or other seasoning or flavoring ingredient(s).

(b) *Fresh-pack sweetened dill pickles.* Fresh-pack sweetened dill pickles are packed in a vinegar solution containing salt (NaCl), dill flavoring and/or dill or other herb(s), sweetening ingredient(s), spices, spice flavoring(s), or other seasoning or flavoring ingredient(s).

(c) *Fresh-pack sweetened dill relish.* Fresh-pack sweetened dill relish consists of finely cut cucumbers and may contain other finely cut vegetables. They are packed in a vinegar solution containing salt (NaCl), dill flavoring and/or dill or other herb, sweetening ingredient(s), spices, spice flavoring(s), or other seasoning or flavoring ingredient(s).

(d) *Fresh-pack sweet pickles.* Fresh-pack sweet pickles are packed in a vinegar solution containing salt (NaCl), sweetening ingredient(s), spices, spice flavoring(s), or other seasoning or flavoring ingredient(s).

(e) *Fresh-packed sweet relish.* Fresh-pack sweet relish consists of finely cut cucumbers, and may contain other finely cut vegetables, packed in a vinegar solution containing salt (NaCl), sweetening ingredient(s), spices, spice flavoring(s), or other seasoning or flavoring ingredient(s).

(f) *Fresh-pack dietetic pickles.* Fresh-pack dietetic pickles may be prepared in any style with or without the addition of sweetening ingredient(s), salt (NaCl), and other suitable ingredient(s) as declared and permitted under the Federal Food, Drug, and Cosmetic Act for foods purporting to be for special dietary uses.

TABLE I—PROPORTIONS OF PICKLE INGREDIENTS IN CERTAIN TYPES AND STYLES

Pickle ingredients and style	Cured type and fresh-pack type	
	Sour mixed; sweet mixed; sour chow chow; sweet chow chow	Sour relish; sweet relish; sweetened dill relish
	Percent by weight of drained weight of product	
Cucumbers—any style other than finely cut.	60% to 80%.	
Cucumbers—finely cut.		60% to 100%.
Cauliflower—cut	10% to 30%.	
Cauliflower—finely cut.		10% to 30% (optional).
Onions—whole (maximum diameter of 1¼ inch).	5% to 12%.	
Onions—sliced or cut.	do.	
Onions—finely cut.		5% to 12% (optional).
Green tomatoes—whole or pieces.	10% maximum.	
Green tomatoes—finely cut.	None.	10% maximum (optional) when used in lieu of equal quantities of cauliflower.
Red, green, or yellow peppers or pimientos—cut, finely cut, or pieces.	Optional ingredient.	Optional ingredient.
Cabbage	do.	Do.
Olives	do.	Do.

GRADES

§ 52.1685 Grades of pickles.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of pickles in which the cucumbers possess similar varietal characteristics; and that for the applicable type: (1) Possess a good flavor; (2) possess a good color; (3) are reasonably uniform or practically uniform in size for the applicable styles; (4) are practically free from defects; (5) possess a good texture; and (6) score not less than 90 points as outlined in this subpart.

(b) "U.S. Grade B" (or "U.S. Extra Standard") is the quality of pickles in which the cucumbers possess similar varietal characteristics; and that for the applicable type: (1) Possess a reasonably good flavor; (2) possess a reasonably good color; (3) may or may not be at least reasonably uniform in size for the applicable styles; (4) are reasonably free from defects; (5) possess a reasonably good texture; and (6) score not less than 80 points as outlined in this subpart.

(c) "Substandard" is the quality of pickles that fail to meet the requirements of U.S. Grade B.

FILL OF CONTAINER

§ 52.1686 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since the fill of container, as such, is not a factor of quality for the purpose of these grades. It is recommended that each container be filled as full as practicable with product without impairment of quality. The pickle ingredient shall be covered or practically covered with the packing medium, and that the product occupy not less than 90 percent of the total capacity of the container.

§ 52.1687 Quantity of pickle ingredient.

(a) The recommended minimum quantity of pickle ingredient is designated as a percentage of the declared volume of product in the container for all items except pickle relish. Minimum quantity of pickle relish is designated as a relationship of the drained weight of the pickle ingredient to the declared volume of the container. The minimum quantities of pickle ingredient recommended herein are not incorporated in the grades of the finished product, since minimum quantity, as such, is not a factor of quality for the purposes of these grades.

(1) The percent volume of pickle ingredient is determined for all styles, except relish, as follows:

(i) A pictorial drawing of the overflow can and basket is illustrated in § 52.1699. The can is a No. 10 or one to two gallon size with an overflow spout constructed from ⅛ to 7/16 inch inside diameter metal tubing. The tubing is soldered to opening inside of can about 1 inch from bottom and is bent upward parallel to sides. The tube is bent over and slightly downward from the can at upper end to form a spout about 1½ inches below top of can. The lower tip end of the spout is lower than the inside lower curve of the spout (point A). The upper tip end of the spout is higher than the inside lower curve of the spout (point A). The upper tip end of the spout is slightly shorter than the lower tip end of the spout. A brace near the top of the can holds tubing firmly in place. A woven wire basket made from screen wire with about 8 meshes to the inch with a handle is used for lowering the pickle ingredient into the overflow can.

(*a*) Place overflow can on level table so that overflow will discharge into sink. Fill overflow can with water at room temperature (approximately 68° F., 20° C.). Place empty basket into filled overflow can.

(*b*) When overflow ceases, place beaker or graduated cylinder under spout. Remove basket and place drained pickle ingredient (at room temperature) in basket and lower slowly into overflow can. When overflow ceases, record fluid overflow. The percent volume of pickle ingredient (volume occupied) is calculated for the declared container size as follows:

$$\frac{\text{Overflow}}{\text{Declared fluid content of container}} \times 100 = \text{percent volume of pickle ingredient}$$

(*c*) Prior to determining the percent volume of pickle ingredient for chow chow pickles the drained pickle ingredient is prepared as follows: Empty the contents of the container upon a United States Standard No. 8 sieve of proper diameter so as to distribute the product evenly. Wash off all adhering sauce under a spray of water at a temperature of approximately 20° C. (68° F.). Incline the sieve to facilitate drainage and allow to drain for two minutes.

(ii) Any other method that gives comparable results may be used to deter-

mine the percent volume of pickle ingredient in the declared container size.

(2) The percent weight/volume (w/v) is determined as follows:

(i) The drained weight of pickle relish of all types is determined by emptying the contents of the container upon a United States Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937 inch±3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for two minutes. The drained weight is the weight of the sieve and the pickles less the weight of the dry sieve. A sieve 8 inches in diameter is used for one quart and smaller size containers and a sieve with 12 inches in diameter is used for containers larger than one quart in size.

(ii) Minimum quantity of pickle ingredient is designated as percent weight/volume which for the purposes of these standards is calculated as follows:

$$\frac{\text{Drained weight}}{\text{Declared fluid content of container}} \times 100$$

=percent weight/volume of pickle ingredient

TABLE II—RECOMMENDED MINIMUM QUANTITY OF PICKLE INGREDIENT FOR ALL ITEMS OF CURED AND FRESH-PACK TYPES OF PACK EXCEPT RELISH

Style	Container sizes	Minimum pickle ingredient
All styles	Less than 12 U.S. fluid ounces.	55%
Do	12 U.S. fluid ounces and over.	60%

TABLE III—PICKLE RELISH—RECOMMENDED DRAINED WEIGHT PERCENT IN RELATION TO DECLARED FLUID OUNCE VOLUME OF CONTAINER (w/v)

Cured:	
Sweet	95% (w/v)
Other than sweet	88% (w/v)
Fresh pack:	
Sweet	85% (w/v)
Other than sweet	80% (w/v)

§ 52.1688 Compliance with recommended minimum quantity of pickle ingredient.

Compliance with the recommended minimum quantity of pickle ingredient is determined by averaging the percent volume of pickle ingredient or percent weight/volume as applicable, from all the containers in the sample which represents a specific lot; and such lot is considered as meeting the recommendations if the following criteria are met:

(a) The sample average meets the recommended minimum quantity of pickle ingredient; and

(b) There is no unreasonable shortage of pickle ingredient in any container.

SIZES AND COUNTS

§ 52.1689 Sizes for whole pickles.

Sizes of whole pickles are based on the lengths and the relationship of lengths to the count per gallon. Size designations and applicable counts and lengths are outlined in Table IV of this subpart. Unless qualified by a number designation, the full range in sizes for the applicable word designation applies. The length is measured through the center of the longitudinal axis from stem to blossom end.

TABLE IV

Size		Count per gallon	Count per No. 10 can	Lengths
Word designation	Number designation			
Midgets	1	445–545	311–380	2 inches or less.
Do	2	330–444	231–310	
Gherkins	1	225–329	158–230	Over 2 inches to 2¾ inches, inclusive.
Do	2	135–224	94–157	
Do	3	100–134	70– 93	
Small	1	80– 99	56– 69	Over 2¾ inches to 3½ inches, inclusive.
Do	2	66– 79	46– 55	
Do	3	52– 65	36– 45	
Medium		40– 51	28– 35	Over 3½ inches to 4 inches, inclusive.
Large	1	26– 39	18– 27	Over 4 inches to 4¾ inches, inclusive.
Do	2	22– 25	15– 17	
Extra large		16– 21	11– 14	Over 4¾ inches.

FACTORS OF QUALITY

§ 52.1690 Ascertaining the grade of a sample unit.

(a) *General.* The grade of a sample unit is ascertained by considering certain factors and analytical requirements which are not scored; the ratings for the factors of color, uniformity of size, defects, and texture which are scored; the total score; and the limiting rules which may apply.

(b) *Factors and analytical requirements not rated by score points.*

(1) Varietal characteristics.
(2) Acid content.
(3) Salt content.
(4) Brix value or Baumé value.
(5) Flavor (palatability).

(c) *Factors rated by score points.* The relative importance of each factor is expressed numerically on a scale of 100. The maximum number of points that may be given each factor is:

Factors:	Points
Color	20
Uniformity of size	20
Defects	30
Texture	30
Total score	100

(d) *Flavor*—(1) *General.* In evaluating flavor for the respective types—cured and fresh pack—consideration is given to (i) those flavor characteristics which serve to identify the respective type and flavor; (ii) the effects of curing, preparation, processing and storing as may be applicable; (iii) compliance with the requirements for acidity, salt and sweetener for the respective kind of pickles; and (iv) freedom from objectionable and off flavors of any kind.

(2) "Good flavor" means that the product has a good distinctive flavor for the respective type, is free from objectionable flavors and odors and meets the analytical requirements of Tables V and VI as may be applicable.

(3) "Reasonably good flavor" means that the product may be somewhat lacking in a good distinctive flavor for the respective type.

TABLE V—CURED TYPE

ANALYTICAL LIMITS FOR "GOOD FLAVOR" IN GRADE A

Cured Type	Acid (acetic unless indicated otherwise) grams		Salt			Brix or Baumé
			NaCl	Salometer		
	Minimum	*Maximum*	*Maximum*	*Minimum*	*Maximum*	*Minimum*
Dills (natural or genuine)	Lactic 0.6 gm. (per 100 ml.).			10°	19°	
Dills (processed)	0.6 gm. (per 100 ml.).			10°	19°	
Sour	1.7 gms. (per 100 ml.).	2.7 gms. (per 100 gms.)		10°	19°	
Sour mixed						
Sour relish	1.7 gms. (per 100 gms.)	2.7 gms. (per 100 gms.)		10°	19°	
Sour chow chow	1.7 gms. (per 100 gms.)	2.7 gms. (per 100 gms.)	3 gms. (per 100 gms.).			
Sweets	1.7 gms. (per 100 ml.).	2.7 gms. (per 100 gms.)	3 gms. (per 100 ml.).			32.64° or 18.0°.
Sweet mixed						
Sweet relish	1.7 gms. (per 100 gms.)	2.7 gms. (per 100 gms.)	3 gms. (per 100 gms.).			Do.
Sweet chow chow	1.7 gms. (per 100 gms.)	2.7 gms. (per 100 gms.)	do			28.0° or 15.5°.

TABLE VI—FRESH-PACK TYPE

ANALYTICAL LIMITS FOR "GOOD FLAVOR" IN GRADE A

Fresh-pack type	Acid (acetic) grams		NaCl (salt)		Brix or Baumé
	Minimum	*Maximum*	*Minimum*	*Maximum*	*Minimum*
Fresh-pack dills	0.5 gm. (per 100 ml.)	1.1 gms. (per 100 ml.)	1.75%	4.25%	
Fresh-pack sweetened dills	0.5 gm. (per 100 ml.)	1.1 gms. (per 100 ml.)	1.75%	4.25%	7.2° or 4.0°.
Fresh-pack sweetened dill relish	0.5 gm. (per 100 gms.)	1.1 gms. (per 100 gms.)	1.75%	4.25%	7.2° or 4.0°.
Fresh-pack sweets	0.8 gm. (per 100 ml.)	1.3 gms. (per 100 ml.)	1.25%	2.75%	18.0° or 10.0°.
Fresh-pack relish	0.8 gm. (per 100 gms.)	1.3 gms. (per 100 gms.)	1.25%	2.75%	18.0° or 10.0°.
Fresh-pack dietetic					

§ 52.1691 Ascertaining the rating for each factor.

The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.1692 Color.

(a) *(A) classification.* Pickles that possess a good color may be given a score of 18 to 20 points. "Good color" means that the skin color of the cucumber ingredient is practically uniform and typical of pickles that have been properly prepared and properly preserved or processed; and has the following further meanings for the respective type:

(1) *Grade A Color—cured type.* (i) The typical skin color of the cucumber ingredient ranges from light green to dark green and is practically free from bleached areas;

(ii) Not more than 10 percent, by weight, of the cucumber ingredient may vary markedly from such typical color;

(iii) In mixed pickles, chow chow pickles, and pickle relish all of the pickle ingredients possess a good, practically uniform typical color for the respective ingredients; and

(iv) Notwithstanding the foregoing requirements, the overall color appearance shall be that of pickles properly prepared, properly preserved, and properly packaged for cured type.

(2) *Grade A Color—fresh-pack type.* (i) The typical skin color of the cucumber ingredient ranges from yellow-green to green and is reasonably free from overcooked, chalky, and bleached areas;

(ii) Not more than 15 percent, by weight, of the cucumber ingredient may vary markedly from such typical color;

(iii) In pickle relish all of the pickle ingredients possess a good, reasonably uniform typical color for the respective ingredient; and

(iv) Notwithstanding the foregoing requirements, the overall color appearance shall be that of pickles properly prepared and properly processed for fresh-pack type and should be free of ripe cucumbers or other off-color vegetable ingredient.

(b) *(B) classification.* If the pickles possess a reasonably good color, a score of 16 or 17 points may be given. Pickles that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that the skin color of the cucumber is reasonably uniform and typical of pickles that have been properly prepared and properly preserved or processed; and has the following meanings for the respective type:

(1) *Grade B Color—cured type.* (i) The typical skin color of the cucumber ingredient ranges from light green to dark green and is reasonably free from bleached areas;

(ii) Not more than 25 percent, by weight, of the cucumber ingredient may vary markedly from such typical color;

(iii) In mixed pickles, chow chow pickles, and pickle relish all of the pickle ingredients possess a reasonably good, reasonably uniform typical color for the respective ingredient; and

(iv) Notwithstanding the foregoing requirements, the overall color appearance shall be that of pickles properly prepared, properly preserved, properly packaged for cured type.

(2) *Grade B Color—fresh-pack type.* (i) The typical skin color of the cucumber ingredient ranges from yellow-green to green and is fairly free from overcooked, chalky, and bleached areas;

(ii) Not more than 30 percent, by weight, of the cucumber ingredient may vary markedly from such typical color;

(iii) In pickle relish all of the pickle ingredients possess a good, fairly uniform typical color for the respective ingredient; and

(iv) Notwithstanding the foregoing requirements, the overall color appearance shall be that of pickles properly prepared and properly processed for fresh-pack type and should be free of ripe cucumbers or other off-color vegetable ingredient.

(c) *(SStd.) classification.* Pickles that fail to meet the requirements of paragraph (b) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.1693 Uniformity of size.

(a) *Definitions of terms.* (1) "Diameter" of a whole pickle means the shortest diameter measured transversely to the longitudinal axis at the thickest portion of the pickle.

(2) "Diameter" of a unit sliced crosswise is determined by measuring the shortest diameter of the cut surfaces of the unit.

(3) "Length" of a unit sliced lengthwise is the longest straight measurement at the approximate longitudinal axis.

(b) *(A) classification.* Pickles that are practically uniform in size may be given a score of 18 to 20 points. "Practically uniform in size" means that the units within a single style of whole, sliced crosswise, sliced lengthwise, cut, and finely cut may vary moderately in size but not to the extent that the overall appearance of the product is materially affected, and that further meet the criteria for variation in diameter, length, or weight for the applicable style as stated in Table VII of this subpart.

TABLE VII—LIMITS IN (A) CLASSIFICATION FOR UNIFORMITY OF SIZE

	Length variation (maximum)		Diameter variation (maximum)		Thickness variation
	In all units	In 90% of units	In all units	In 90% of units	
Whole styles:	*Inches*	*Inch*	*Inch*	*Inch*	
Midgets size	¾	½	5/16	5/16	
Gherkins size					
Small size	1	¾	¾	¾	
Medium size					
Large size	1¼	1	7/16	7/16	
Extra large size					
Sliced lengthwise:					
Halves or triangular shapes	1	½			Not less than ¼ inch nor more than ⅜ inch thick.
With parallel surfaces	1	½			Not less than ⅛ inch nor more than ⅜ inch thick.
Sliced crosswise			The largest unit is not more than 2 inches in diameter.		
Cut pickles	Weight variations: Not more than 5 percent, by weight, of all units (exclusive of peppers, pimientos, and onions) may be smaller than ¼ ounce each; and in the remainder the largest cucumber unit does not exceed the smallest such unit by more than four times the weight of the smallest unit.				
Finely cut	The pickle ingredients may vary moderately in size.				

(c) *(B) classification.* If the cucumber pickles are reasonably uniform in size, a score of 16 or 17 points may be given. "Reasonably uniform in size" means that the units within a single style of whole, sliced crosswise, sliced lengthwise, cut, and finely cut may vary considerably in size and may fail to meet in some respects the criteria for variation in diameter, length, or weight as stated in Table VII of this subpart, but not to the extent that the overall appearance of the product is seriously affected.

(d) *(SStd.) classification.* Pickles that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 15 points and shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a partial limiting rule).

§ 52.1694 Defects.

(a) *General.* The factor of defects refers to the degree of freedom from grit, sand, or silt; from attached stems, curved pickles, misshapen pickles, end cuts; from units damaged by mechanical injury; from units or finely cut pickle ingredient blemished by brown or black discoloration, by scars, or by other means; and from other defects.

(b) *Definitions.* "Curved" pickles means whole cucumber pickles that are curved at an angle of 35° or more but not more than 60°.

(2) "Misshapen" pickles means whole cucumber pickles that are curved at more than a 60-degree angle, "nubbins", and other badly crooked or misshapen pickles.

(3) "Grit, sand, or silt" means any particle of earthy material, whether in the liquid packing medium or imbedded in the skin or flesh of the pickle, that affects the edibility.

(4) "Blemished" means affected by discoloration, scars, scratches, skin breaks, or other similar imperfections. Pickle units or finely cut pieces so affected are classified in varying degrees as:

Minor blemishes—those which individually only slightly detract from the appearance, but which in increasing numbers detract more seriously from the overall appearance of the product.

Major blemishes—those which individually detract, but not seriously, from the appearance and edibility of the product.

Serious blemishes—those which individually detract seriously from the appearance and edibility of the product.

(5) "Mechanical damage" means crushed or broken units or units damaged by other similar means to such an extent that the appearance of the unit is materially affected. Small odd-sized units in top of container are not considered mechanical damage when apparently added to ensure well-filled containers.

(6) "Stem" means any attached stem longer than ¼ inch.

(7) "Long stem" means any attached stem longer than ½ inch.

(8) "End cut" (or "end cuts") means any portion of a whole cucumber pickle having only one cut surface obtained in the preparation of the style of pickles "sliced crosswise".

(9) "Other defects" means any defects, or defective units, not specifically mentioned which affect the appearance or edibility, or both, of the product. These include, but are not necessarily limited to, abnormally colored pickle ingredients and harmless vegetable or other harmless material not associated with proper pickle preparation or packaging.

(c) (*A*) *classification.* Pickles that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means that:

(1) there may be present no more than a trace of grit in an occasional unit to the extent that the edibility of the product is no more than slightly affected;

(2) the product meets the requirements of Grade A as indicated in Table VIII of this subpart; and

(3) other defects, individually or collectively, do not materially affect the appearance or edibility of the product.

(d) (*B*) *classification.* If the pickles are reasonably free from defects, a score of 24 to 26 points may be given. Pickles that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that:

(1) there may be present a small amount of grit which does not seriously affect the edibility of the product;

(2) the product meets the requirements of Grade B as indicated in Table VIII of this subpart; and

(3) other defects, individually or collectively, do not seriously affect the appearance or edibility of the product.

(e) (*SStd.*) *classification.* Pickles that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

(f) *Explanation of allowances.* For the purposes of Table VIII of this subpart the allowances specified for the respective type of defect and grade classification are applicable to individual containers, except that when a fractional unit results because of the application of the percentage allowance a whole unit is permitted in lieu of such fractional unit: *Provided,* That in all containers comprising the sample the average of such defective units does not exceed the allowance.

TABLE VIII—MAXIMUM ALLOWANCES FOR DEFECTS, OR DEFECTIVE UNITS, IN PICKLES

Defects or defective units (in all styles and types unless stated otherwise)	Grade A	Grade B
Curved pickles (in whole style or whole units in other styles).	10 percent, by count, of whole units.	20 percent, by count, of whole units.
Misshapen pickles (in whole style or whole units in other styles).	2 percent, by count, of whole units.	5 percent, by count, of whole units.
Units with attached stems (longer than ¼ inch).	10 percent, by count, of all cucumber units but no more than 1 percent, by count, of all cucumber units with "long stems".	20 percent, by count, of all cucumber units but no more than 4 percent, by count, of all cucumber units with "long stems".
End cuts (in sliced crosswise style or units sliced crosswise).	5 percent, by weight, of all cucumber units.	15 percent, by weight, of all cucumber units.
Damaged by mechanical injury	5 percent, by count, of all pickle units including vegetable ingredients other than cucumber; and excluding finely cut units.	10 percent, by count, of all pickle units including vegetable ingredients other than cucumber; and excluding finely cut units.
In cured type:		
Minor blemish	Reasonably free.	
Major and serious blemish	10 percent, by count, but no more than 1 percent, by count, may be serious.	20 percent, by count, but no more than 3 percent, by count, may be serious.
In fresh-pack type:		
Minor blemish	Fairly free.	
Major and serious blemish	20 percent, by count, but no more than 5 percent, by count, may be serious.	30 percent, by count, but no more than 10 percent, by count, may be serious.

§ 52.1695 Texture.

(a) *General.* The factor of texture refers to the firmness, crispness, and the condition of the cucumber ingredient and of any other vegetable ingredient(s) which may be present.

(b) *Definitions.* (1) "Chalky white area" means a pronounced opaque, chalky white internal portion in which the diameter of such area exceeds one-fifth of the diameter in whole, sliced, or cut pickle units. Very pale green to translucent white internal areas are not considered "chalky white" areas.

(c) (*A*) *classification.* Pickles that possess a good texture may be given a score of 27 to 30 points. "Good texture" means that the cucumber and other vegetable ingredient(s) are firm and crisp for the respective style; are practically free from cucumber pickle units with large objectionable seeds, detached seeds, and tough skins; and has the following meanings for the respective type:

(1) *Grade A texture—cured type.* Of the cucumber ingredient, there may be present not more than:

(i) 5 percent, by count, of units in other than sweet pickles that are slightly shriveled, soft, or slippery;

(ii) 5 percent, by count, of units in sweet pickles that are slightly shriveled, soft, or slippery with no limit on insignificant shriveling;

(iii) 5 percent, by count, of whole units with hollow centers; and

(iv) 10 percent, by count, of whole, sliced, or cut units with chalky white areas.

(2) *Grade A texture—fresh-pack type.* Of the cucumber ingredient, there may be present not more than:

(i) 10 percent, by count, of units that are slightly shriveled or soft and flabby; and

(ii) 15 percent, by count, of whole units with objectionable and large hollow centers.

(d) (*B*) *classification.* If the pickles possess a reasonably good texture a score of 24 to 26 points may be given. "Reasonably good texture" means that the cucumber and other vegetable ingredients are reasonably firm and crisp for the respective style; are reasonably free from cucumber pickle units with large objectionable seeds, detached seeds and tough skins; and has the following meanings for the respective type:

(1) *Grade B Texture—cured type.* Of the cucumber ingredient, there may be present not more than:

(i) 10 percent, by count, of units that are markedly shriveled, soft, or slippery;

(ii) 10 percent, by count, of whole units with hollow centers; and

(iii) 20 percent, by count, of whole, sliced, or cut units with chalky white areas.

(2) *Grade B Texture—fresh-pack type.* Of the cucumber ingredient, there may be present not more than:

(i) 15 percent, by count, of units that are markedly shriveled or soft and flabby; and

(ii) 25 percent, by count, of whole units with objectionable and large hollow centers.

(e) (*SStd.*) *classification.* Pickles that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

METHODS OF ANALYSIS AND DEFINITIONS

§ 52.1696 Definitions of analytical terms.

(a) *Degrees Baumé.* The density of the packing medium in terms of degree Baumé is determined with a Baumé hydrometer (modulus 145) corrected to 20° C. (68° F.).

(b) *Brix value.* Brix value (or "Brix") is determined with a Brix hydrometer corrected to 20° C. (68° F.).

(c) *Degrees Salometer.* Degrees Salometer is determined with a salt hydrometer calibrated in Salometer degrees (0° to 100°) corrected to 20° C. (68° F.). Each degree Salometer corrected to 20° C. (68° F.) is equal to 0.2643 percent salt (NaCl), by weight, in solution. Each 1 percent salt, by weight, in solution at 20° C. (68° F.) corresponds to 3.7836° Salometer.

(d) *Salt.* Salt (NaCl) is determined by titration and the results expressed in terms of "grams per 100 milliliters" of the packing medium; except that salt in relish and chow chow is determined and results expressed in terms of "grams per 100 grams" of product.

(e) *Acid.* Acid is determined by titration with standard sodium hydroxide solution, using phenolphthalein indicator; and the total acidity (calculated as lactic or acetic, as the case may be) is expressed in terms of "grams per 100 milliliters" of the packing medium; except that acid in relish and chow chow is determined and results expressed in terms of "grams per 100 grams" of product.

§ 52.1697 Definition of equalization.

(a) *General.* The equalization of the soluble solids between the pickle ingredient and packing medium is brought about by natural or simulated means and the results of either is considered "after equalization" and is afforded the same significance.

(b) *Natural equalization.* A natural equalization of the finished product is brought about after a certain time has elapsed after processing and storage, as follows:

(1) *Sweetened pickles.* Sweetened pickles with nutritive sweetening ingredient(s) are considered to be equalized 15 days or more after packing.

(2) *Sour and dill pickles.* Sour and dill pickles are considered to be equalized 10 days or more after packing.

(c) *Simulated equalization.* This is a method of simulating equalization by comminuting the finished product in a mechanical blender, filtering the suspended material from the comminuted mixture and making the required test on the filtrate.

(1) *All styles and types of pickles.* On all size containers the entire sample (pickle ingredient and packing medium) is used with an equal weight of distilled water. Cut the large units of pickle ingredient into smaller sections prior to placing in a blender. Comminute the mixture for about two minutes. Strain through a United States Standard No. 20 sieve (0.841 mm opening) and when necessary further filter to obtain a clear sample and make desired analytical determinations on filtrate. After appropriate calculation and corrections have been made multiply the reading by 2 to obtain the final values for Baumé, Brix, Salometer, salt (NaCl), and acidity.

ILLUSTRATIONS

§ 52.1698 Definitions and measurement of pickles.

(a) *Curved pickle.* A curved pickle is one that is curved at an angle of 35 to 60 degrees when measured as illustrated.[3]

(b) *Crooked pickle.* A crooked pickle is one that is curved at an angle greater than 60 degrees, similar to the following illustration.[3]

(c) *Misshapen pickles.* Misshapen pickles include crooked, nubbins, and otherwise misshapen pickles. A nubbin pickle is one that it not cylindrical in form, is short and stubby, or is not well developed. Nubbins and otherwise misshapen pickles are similar to illustrations [3] that follow:

§ 52.1699 Illustration of overflow can with basket (as described in § 52.1687).[3]

LOT COMPLIANCE

§ 52.1700 Ascertaining the grade of a lot.

The grade of a lot of pickles covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.87).

SCORE SHEET

§ 52.1701 Score sheet for pickles.

Size and kind of container	----
Container code or marking	----
Label	----
Net weight (ounces)	----
Vacuum (inches)	----
Quantity pickle ingredient (v/v or w/v)	----
Type of pack ( ) cured; ( ) fresh-pack	----
Type of pickle (dill, sweet, sour, etc.)	----
Style of pickle (whole, sliced, etc.)	----
Density of syrup (degrees Baumé or degrees Brix)	----
Acidity—grams per 100 grams or 100 ml	----
Salt (NaCl)—percent or degrees salometer	----
Size, count (if whole)	----
Ingredients (if mixed or chow chow):	
---- Cucumbers	----
---- Onions	----
---- Other	----
---- Cauliflower	----
---- Peppers	----

Factors		Score points	
Color	20	(A)	18–20
		(B)	[1]16–17
		(SStd.)	[2]0–15
Uniformity of size	20	(A)	18–20
		(B)	16–17
		(SStd.)	[2]0–15
Defects	30	(A)	27–30
		(B)	[1]24–26
		(SStd.)	[2]0–23
Texture	30	(A)	27–30
		(B)	24–26
		(SStd.)	[2]0–23
Total score	100		

Flavor: ( ) good; ( ) reasonably good; ( ) offen flavor	----
Grade	----

[1] Indicates limiting rule.
[2] Indicates partial limiting rule.

Dated: March 8, 1965.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 65-2547; Filed, Mar. 15, 1965; 8:45 a.m.]

[3] Illustrations filed as part of the original document.

[7 CFR Part 55]

GRADING AND INSPECTION OF EGG PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given that the United States Department of Agriculture is considering amendments to the Regulations Governing the Grading and Inspection of Egg Products, under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627).

Statement of considerations. The Department's egg products inspection program provides for high standards of sanitation, inspection techniques, and other requirements. In order to maintain these standards, it has been necessary from time to time to amend the regulations in line with technological advances and other innovations which have resulted in product improvement. Such is the case with respect to the pasteurization of egg products which are processed in plants operating under the Department's egg products inspection program.

The proposed amendments would require all liquid eggs, except whites, including those to which ingredients are added and regardless of whether such products are to be distributed in liquid, frozen or dried form, to be pasteurized to the extent that facilities are available beginning June 1, 1965. All products not pasteurized due to the nonavailability of equipment would have to be analyzed for the presence of Salmonella. When such laboratory analyses show evidence of the presence of Salmonella, the product would have to be pasteurized before being released for consumption.

The proposal would require all liquid and frozen whites to be pasteurized, or analyzed for the presence of Salmonella, or heat treated and analyzed for the presence of Salmonella beginning June 1, 1965, and would require all dried whites, except those produced from pasteurized liquid, to be heat-treated and analyzed for the presence of Salmonella as of this date. When laboratory analysis of liquid or frozen white shows evidence of the presence of Salmonella, such whites would have to be pasteurized or dried and heat-treated prior to being released for consumption. Effective January 1, 1966, all liquid egg products, except whites, would have to be pasteurized. Effective June 1, 1966, all egg products, except dried whites, would be required to be pasteurized regardless of whether distributed in liquid, frozen or dried form. Dried whites, except those produced from pasteurized liquid, would have to be heat-treated in dried form in such a manner as to result in a Salmonella negative product.

This action is necessary because pasteurization and heat treatment are the only effective ways known today to eliminate Salmonella from egg products. Salmonella is a type of bacteria that is pathogenic and can cause food borne infection.

Recently a method to commercially pasteurize the whites or albumen of eggs has been developed. The lack of a feasible method of pasteurization of whites which would not affect their functional properties has long been a hindrance to requiring pasteurization of all egg products.

The January 1, 1966, effective date is set forth for the pasteurization of all egg products, other than whites, including those to which ingredients have been added. This would give affected persons

ample time to purchase and install the equipment necessary for pasteurization and to make the necessary adjustments in their operations. The effective date for the pasteurization of liquid and frozen whites would be June 1, 1966. The additional time is needed to perfect, on a commercial basis, the recently developed method of pasteurization.

The fee for conducting Salmonella tests would be changed from $5.00 to $6.40 per test step on a single sample basis. Under certain conditions, three steps are necessary in testing for the presence of Salmonella. When three or more samples are submitted, the fee per sample shall be $5.00 for step one, $3.00 for step two and $5.00 for step three. This change is necessary because procedures now used are more complex and require more time.

The proposed amendments would also require all required labeling information to be placed on the container and would prohibit such information from being placed on a detachable cover such as a lid. This would aid in the control of officially labeled product and would be in line with other labeling regulations which require all labeling information to be on the main panel of the container.

The time required for an applicant to request reassignment of a grader in plants where applications are in effect during off season would be changed from 20 days to 45 days prior to date operations are to resume. This is necessary to give adequate time for obtaining qualified graders, but does not preclude earlier assignment of graders when available.

The section on egg products containing 25½ percent or more egg solids to which 10 percent salt has been added would be changed so as to apply to all egg products to which 10 percent salt has been added regardless of the percent of egg solids.

Stabilized liquid eggs are presently required to be cooled to 40° F. immediately following stabilization unless immediately dried or pasteurized. Pasteurized liquid eggs are required to be cooled to 40° F. immediately following pasteurization unless immediately dried or stabilized. The 40° F. temperature would be raised to 45° F. to be consistent with the temperature requirements for nonpasteurized and nonstabilized product.

For stabilized liquid whites which are to be dried, provisions would be made to hold such stabilized product to the extent necessary to provide for a continuous operation. Experience has shown that it is impractical to have a drying capacity which will handle the entire volume of product that may be stabilized at one time.

Adjustments would be made in the requirements pertaining to freezing operations so as to provide time for pasteurization prior to freezing when such pasteurization does not take place immediately after draw-off.

Due to the differences in cleaning and sanitizing procedures, the requirements concerning the dry cleaning of bags for the bag collectors on drying units would be changed to give more flexibility.

The proposal would permit the use of 100 percent by volume of nitrogen for the gas packing of dried whole eggs because it has been determined that under present operating procedures, 100 percent nitrogen is as effective as a combination of nitrogen and carbon dioxide.

Certain other sections would be deleted because the requirements are no longer applicable and certain sections would be changed for the sake of clarity.

All persons who desire to submit written data, views, or comments in connection with this proposal shall file the same in triplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, not later than April 15, 1965.

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)).

The proposed amendments are as follows:

§ 55.35 [Amended]

1. Section 55.35 would be amended by deleting the last sentence and adding in lieu thereof the following: "Egg products that are labeled "whites and yolks" shall have the total egg solids content declared on the label if the egg solids content is less than 25½ percent. Beginning January 1, 1966, the label, as well as the official inspection mark if used, shall be applied to the container and shall not be applied to a detachable cover such as a lid."

§ 55.40 [Amended]

2. Section 55.40 would be amended by changing the last sentence to read: "The resultant egg product may be officially identified with the mark shown in figure 4 of § 55.38."

3. The table in § 55.66(a) would be amended by changing the cost for laboratory analyses for Salmonella as follows:

§ 55.66 Egg products laboratory analyses fees.

* * * * *

(a) * * *

Salmonella (Per Test Step),[1]	6.40

* * * * *

4. Section 55.70(b) would be amended to read:

§ 55.70 Charges and other provisions where application is in effect during season of no operation.

* * * * *

(b) *Other provisions.* In making a request, the applicant shall agree not to process or label any product until a grader is reassigned and not to use or ship any packaging or labeling material bearing the official mark without prior approval of a Federal-State Supervisor. Reassignment of graders will be subject to the availability of qualified graders and applicants shall request reassignment of a grader 45 days prior to the date that operations will be resumed.

5. Section 55.77 would be amended by adding new paragraphs (o) and (p) to read:

§ 55.77 General operating procedures.

* * * * *

(o) All pasteurization shall be in accordance with § 55.101 and product may be shipped from one official plant to another official plant for pasteurization. All heat treatment shall be in accordance with § 55.103. All sampling for the presence of Salmonella shall be in accordance with the procedures set forth in paragraph (p) of this section and product shall not be released for distribution until the results of the laboratory analyses are received by the inspector. If the results of the laboratory analyses are Salmonella negative, the product may be released for consumption. If the results of the laboratory analyses are Salmonella positive, the product must be pasteurized or in the case of whites be pasteurized or dried and heat-treated. Salmonella positive product may be shipped from the plant only when it is shipped to another official plant for pasteurization or heat treatment. All shipments of products from one official plant to another for pasteurization or heat treatment shall be in sealed cars or trucks.

(1) *Effective June 1, 1965.* (i) To the extent that on-site facilities are available, pasteurization will be required for all liquid eggs, except whites, including those to which ingredients are added and regardless of whether such products are to be distributed in liquid, frozen or dried form.

(ii) When such facilities are not available or are inadequate to pasteurize all liquid produced, samples from each lot of nonpastuerized liquid shall be analyzed for the presence of Salmonella.

(iii) All liquid and frozen whites shall be either pasteurized, or heat treated and analyzed for the presence of Salmonella, or sampled and analyzed for the presence of Salmonella.

(iv) All dried whites, except those produced from pasteurized liquid, shall be heat-treated in dried form and shall be sampled and analyzed for the presence of Salmonella.

(2) *Effective January 1, 1966.* All liquid eggs, except whites, including those to which ingredients are added and regardless of whether such products are to be distributed in liquid, frozen or dried form, shall be pasteurized.

(3) *Effective June 1, 1966.* All liquid whites to be released into consumptive channels in liquid or frozen form, shall be pasteurized.

(p) (1) For liquid egg products which are required to be sampled for the presence of Salmonella and which have not been heat treated, one sample per lot of 6,000 pounds or fraction thereof

[1] Salmonella test may be in three steps as follows: Step one—growth through differential agars; step two—growth and testing through triple-sugar-iron agar; step three—confirmatory test through biochemicals. When three or more samples are submitted, the fee per sample shall be $5.00 for step one, $3.00 for step two and $5.00 for step three.

shall be submitted for laboratory analyses. The sample shall be a composite consisting of product drawn from each batch comprising the lot and such product shall be thoroughly churned prior to sampling. For continuous type operations, the sample shall be a composite consisting of product drawn from approximately each 300 pounds produced. Liquid and frozen egg whites which have been heat treated shall be sampled at the rate of one composite sample per lot of not in excess of 36,000 pounds. Dried whites which have been heat treated in dried form shall be sampled at the rate of one composite sample per lot of not in excess of 2,000 pounds. Each lot of product must be identified.

(2) Laboratory analyses for the presence of Salmonella shall be made by a laboratory approved by the national supervisor and continuing approval will be based on the results of confirmation samples submitted to a USDA laboratory at the applicant's expense.

6. Section 55.85(b) would be amended to read:

§ 55.85 Liquid cooling operations.

* * * * *

(b) All shell eggs shall be precooled to temperatures that will result in liquid eggs not exceeding a temperature of 70° F. during processing, other than while being stabilized or pasteurized. Notwithstanding the foregoing, shell eggs exceeding 70° F. may be broken: *Provided*, That the liquid is immediately mechanically cooled prior to draw-off to the temperatures specified in paragraphs (c) through (g) of this section.

* * * * *

7. Section 55.85(d) would be amended by deleting the words "containing 25½ percent or more egg solids" in the first sentence.

8. Section 55.85(e) would be amended by changing "40° F." in the first sentence to "45° F."

9. Section 55.85(f) would be amended by changing "40° F." in the first sentence to "45° F."

10. Section 55.85(g)(1) would be amended to read:

§ 55.85 Liquid cooling operations.

* * * * *

(g)(1) Liquid whites that are to be stabilized by removal of glucose and dried shall be held at a temperature not exceeding "70° F." *Provided*, That the stabilization process is begun within eight (8) hours from time of draw-off. Liquid whites held longer than eight hours shall be cooled immediately after draw-off to 55° F. or less within one and one-half (1½) hours from time of draw-off and held at 55° F. or less until stabilizing or pasteurizing operations are begun or until delivered to the user. Drying shall be carried out as soon as possible after removal of glucose and the storage of stabilized liquid white shall be limited to that necessary to provide for a continuous operation.

* * * * *

11. Section 55.85(l) would be deleted.

§ 55.88 [Amended]

12. Section 55.88(b) would be amended by changing the first sentence to read: "(b) All nonpasteurized egg products which are to be frozen shall be solidly frozen or reduced to a temperature of 10° F. within 60 hours from time of draw-off and all pasteurized egg products which are to be frozen shall be solidly frozen or reduced to a temperature of 10° F. within 60 hours from time of pasteurization."

13. Section 55.92 (b) and (c) would be amended to read:

* * * * *

(b) When nonpasteurized liquid whole eggs and yolks are preheated, they shall be heated to a temperature of not less than 138° F.

(c) Low pressure liquid egg lines, high pressure pumps, low pressure pumps, homogenizers and pasteurizers, unless cleaned by acceptable in-place cleaning methods, shall be dismantled and cleaned after each day's operation except that when a batch of stabilized liquid has not been completely dried at the end of the day's operation, clean-up may be delayed until the remainder of the batch has been dried.

* * * * *

14. Section 55.92(g) would be amended by deleting the words "at least once each month" in the second sentence and substituting in lieu thereof the words "as often as needed to maintain them in a sanitary condition."

§ 55.101 [Amended]

15. Section 55.101(b) would be amended by changing the first sentence to read: "(b) *Pasteurizing operations.* The strained or filtered liquid egg shall be flash heated to not less than 140° F. and held at this temperature for not less than 3½ minutes."

16. Section 55.102(a) (2) and (3) and would be amended to read:

§ 55.102 Gas packing dried whole eggs.

* * * * *

(a) *Gas packing facilities.* * * *

(2) The gassing equipment used shall be capable of partially evacuating the air from the cans and introducing, as a replacement for the evacuated air, a gas mixture consisting of 100 percent by volume of nitrogen or a mixture of nitrogen and carbon dioxide, provided the carbon dioxide does not exceed 20 percent.

(3) The equipment used to supply the nitrogen and carbon dioxide shall have flow meters or similar devices so that there is evidence of the percent by volume of the gases used.

* * * * *

17. Section 55.102(b)(3) would be deleted.

18. A new § 55.103 would be added to read:

§ 55.103 Heat treatment of whites.

(a) *Liquid whites.* Where heat treatment of liquid whites is required, product shall be heated throughout to a minimum temperature of 132° F. or higher and held at that temperature for at least 2 minutes.

(b) *Dried whites.* Where heat treating of dried whites is required, product shall be heated throughout for such times and at such temperatures as will result in Salmonella negative product.

(c) *Other acceptable methods.* Other methods of heat treating may be approved by the national supervisor upon receipt of satisfactory evidence that such methods will result in a Salmonella negative product.

Done at Washington, D.C., this 10th day of March 1965.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 65-2651; Filed, Mar. 15, 1965; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71]

[Airspace Docket No. 65-EA-1]

CONTROL ZONE

Proposed Designation

The Federal Aviation Agency is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations which would designate a part-time control zone for Hazleton Airport, Hazleton, Pa.

Airspace requirements for the Hazleton Airport, Hazleton, Pa., were previously reviewed under CAR 60-21/60-29 and a transition area for this airport is proposed in Airspace Docket 64-EA-26.

Subsequent to our review, reliable two-way communications via Hazleton VOR/LRCO between the Wilkes-Barre FSS and aircraft on the ground at Hazleton Airport have been established. Allegheny Airlines personnel at Hazleton Airport have agreed to take hourly and special weather observations during the hours of the control zone designation and forward same to Wilkes-Barre FSS and approach control via company teletype. Allegheny Airlines personnel will cooperate in making weather data available to the airport manager for conspicuous display in the general aviation area for public use and also advise the airport manager whenever weather conditions are less than VFR. On the basis of the additional communications capabilities and the airline agreement to make and disseminate weather, Hazleton Airport now qualifies for a control zone designation.

The proposed designation of the Hazleton, Pa., Control Zone will provide protection for aircraft executing prescribed instrument approach and departure procedures.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, ATTN: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy Inter-

national Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a comprehensive review of the airspace requirements for the terminal area of Hazleton, Pa., proposes the airspace action hereinafter set forth:

Amend § 71.171 of Part 71 so as to designate a Hazleton, Pa., control zone described as follows:

HAZLETON, PA.

Within a 5-mile radius of the center, 40°59'11" N., 75°59'38" W. of Hazleton Airport, Hazleton, Pa.; within 2 miles each side of the Hazleton VOR 263° and 083° radials extending from the 5-mile radius zone to 6 miles west of the VOR and within 2 miles each side of the 076° and 276° bearings from the Hazleton RBN extending from the 5-mile radius zone to 6 miles east of the RBN. This control zone is effective from 0700–2000 hours Monday thru Friday, 0700–1700 hours Saturday and 0900–2000 hours Sunday, local time.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on February 26, 1965.

OSCAR BAKKE,
Director, Eastern Region.

[F.R. Doc. 65–2620; Filed, Mar. 15, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65–EA–4]

CONTROL ZONES

Proposed Alteration

The Federal Aviation Agency is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations which would alter the Findlay, Ohio, Control Zone (29 F.R. 17598) to provide an additional extension premised on the 248° bearing of the Findlay RBN.

The new extension would protect aircraft utilizing the new instrument approach procedure AL–702–ADF–2 to Findlay Airport, Findlay, Ohio.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, ATTN: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John P. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a review of the airspace requirements for the terminal area of Findlay, Ohio, proposes the airspace action hereinafter set forth:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Findlay, Ohio, Control Zone and insert in lieu thereof:

Within a 5-mile radius of the center, 41°00'55" N., 83°40'15" W. of Findlay Airport, Findlay, Ohio, excluding the portion within a 1-mile radius of the center, 40°57'40" N., 83°35'45" W. of Lutz Airport, Findlay, Ohio; within 2 miles each side of the Findlay VOR 046° radial extending from the 5-mile radius zone to the VOR; within 2 miles each side of the Findlay RBN 178° bearing extending from the 5-mile radius zone to 8 miles south of the RBN; and within 2 miles each side of the Findlay RBN 248° bearing extending from the 5-mile radius zone to 8 miles southwest of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on February 24, 1965.

WAYNE HENDERSHOT,
Deputy Director, Eastern Region.

[F.R. Doc. 65–2621; Filed, Mar. 15, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65–EA–2]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations which would alter the 1,200-foot Ogdensburg, N.Y., Transition Area (29 F.R. 17686) and add a 700-foot transition area over Ogdensburg Municipal Airport, Ogdensburg, N.Y.

The 700- and 1,200-foot transition areas would provide protection for aircraft executing prescribed holding procedures in the Ogdensburg, N.Y., terminal area and protection for aircraft executing arrival procedures down to 700 feet above ground level and departure procedures from 700 feet above ground level.

The floors of airways which traverse the transition areas proposed herein would coincide with the floors of the transition areas.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, ATTN: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a comprehensive review of the airspace requirements for the terminal area of Ogdensburg, N.Y., attendant to the implementation of the provisions of Civil Air Regulation amendments 60–21 and 60–29 (26 F.R. 570, 27 FR 4012), proposes the airspace actions hereinafter set forth:

Amend § 71.181 of Part 71 so as to delete the description of the Ogdensburg, N.Y., Transition Area and insert in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°40'52" N., 75°28'05" W. of Ogdensburg Municipal Airport, Ogdensburg, N.Y., excluding the portion over Canada; within 2 miles each side of a 077° bearing from the Ogdensburg radio beacon extending from the 5-mile radius to 8 miles east of the radio beacon.

That airspace extending upward from 1,200 feet above the surface beginning at 44°16'00" N., 75°30'00" W. to 44°16'00" N., 76°10'00" W., thence NE along the U.S./Canadian border to 44°56'00" N., 75°05'00" W. to 44°42'00" N., 75°05'00" W. to point of beginning.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on February 24, 1965.

WAYNE HENDERSHOT,
Deputy Director, Eastern Region.

[F.R. Doc. 65–2622; Filed, Mar. 15, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65–EA–14]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of

the Federal Aviation Regulations which would designate a 700-foot transition area over Chester Airport, Chester, Conn.

The controlled airspace in the Chester terminal area is presently composed of the New York Control Area Extension (29 F.R. 17572) and the 1,200-foot Providence, R.I., Transition Area (29 F.R. 17692). Airspace proposals for Bridgeport and Hartford, Conn., 1,200-foot transition areas, which will impinge on the subject terminal area, have been promulgated as Notices of Proposed Rule Making.

The 700-foot transition area would provide protection for aircraft executing prescribed instrument approach procedures down to 700 feet above ground level and aircraft executing instrument departure procedures from 700 feet above ground level.

The floors of airways which traverse the transition area proposed herein would coincide with the floor of the transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, ATTN: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a comprehensive review of the terminal airspace requirements for Chester, Conn., attendant to the implementation of the provisions of Civil Air Regulation amendments 60–21 and 60–29 (26 F.R. 570, 27 F.R. 4012), proposes the airspace actions hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700–foot Chester, Conn., Transition Area described as follows:

CHESTER, CONN.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°23'01" N., 72°30'20" W. of Chester Airport, Chester, Conn., and within 2 miles each side of the Madison VOR 062° radial extending from the 5-mile radius to the VOR.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on February 25, 1965.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 65–2623; Filed, Mar. 15, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65–SO–14]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at Kinston, N.C.

The Kinston transition area is presently designated as that airspace extending upward from 700 feet above the surface within 2 miles each side of the 047° radial of the Kinston VOR, extending from the 5-mile radius control zone to 8 miles NE of the VOR.

The Kinston control zone is designated as within a 5-mile radius of Stallings Field, Kinston, N.C. (latitude 35°19'40" N., longitude 77°37'05" W.) effective from 0700 to 2330 hours, local time daily.

During the hours the control zone is not effective the floor of controlled airspace within a 5-mile radius of Stallings Field is 1,200 feet above the surface.

In order to provide adequate controlled airspace for the protection of aircraft arriving and departing Stallings Field under instrument flight rules, the Federal Aviation Agency proposes the following airspace action.

The Kinston, N.C., transition area would be redesignated as that airspace extending upward from 700 feet above the surface within a 5-mile radius of Stallings Field (latitude 35°19'40" N., longitude 77°37'05" W.); within 2 miles each side of the 047° radial of the Kinston VOR, extending from the 5-mile radius area to 8 miles NE of the VOR.

The floors of airways which traverse the transition area proposed herein would automatically coincide with the floor of the transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Director, Southern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Post Office Box 20636, Atlanta, Ga., 30320. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Agency, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on March 5, 1965.

PAUL H. BOATMAN,
Acting Director, Southern Region.

[F.R. Doc. 65–2624; Filed, Mar. 15, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65–CE–23]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations to designate controlled airspace in the Thief River Falls, Minn., terminal area.

No controlled airspace is presently designated in the Thief River Falls, Minn., terminal area.

The Federal Aviation Agency, having completed a comprehensive review of the terminal airspace structure requirements in the Thief River Falls, Minn., terminal area, including studies attendant to the implementation of the provisions of Amendments 60–21 (26 F.R. 570) and 60–29 (27 F.R. 4012) of Part 60 of the Civil Air Regulations, proposes to take the following airspace actions.

(1) Designate a control zone at Thief River Falls, Minn., to comprise that airspace within a 5-mile radius of Thief River Falls, Minn., Municipal Airport (latitude 48°03'58" N., longitude 96°11'06" W.), within 2 miles each side of the 138° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius zone to 8 miles SE of the airport, and within 2 miles each side of the 305° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius zone to 8 miles NW of the airport. This control zone will be effective during the times designated by a Notice to Airmen and continuously published in the Airman's Information Manual.

(2) Designate a transition area at Thief River Falls, Minn., to comprise that airspace extending upward from 700 feet above the surface within a 5-mile radius of Thief River Falls, Minn., Municipal Airport (latitude 48°03'58" N., longitude 96°11'06" W.), within 2 miles each side of the 138° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius area to 8 miles SE of the airport, and within 2 miles each side of the 305° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius area to 8 miles NW of the airport; and that airspace extending upward from 1,200 feet above the surface within 8 miles NE and 5 miles SW of the 138° bearing from Thief River Falls Municipal Airport extending from

the airport to 12 miles SE of the airport, and within 5 miles NE and 8 miles SW of the 305° bearing from Thief River Falls Municipal Airport extending from the airport to 12 miles NW of the airport.

The proposed control zone, when effective, will provide protection for aircraft executing departure and instrument approach procedures. The proposed control zone will be effective during those hours that weather reporting service is provided by duly certificated personnel of North Central Airlines. Since the hours during which this reporting service will be available depend on airline schedules, they may be subject to change. Normally, 30 days' notice will be given for any change in the hours of operation by Notice to Airmen and published in the Airman's Information Manual.

The proposed 700-foot floor transition area would provide controlled airspace protection for arriving and departing aircraft at Thief River Falls, during the times that the control zone is not in effect.

The proposed transition area with a floor of 1,200 feet above the surface would provide controlled airspace protection for the procedure turn areas of the prescribed and proposed instrument approach procedures and for holding pattern airspace.

The floor of the airway that traverses the transition areas proposed herein would automatically coincide with the floors of the transition areas.

Certain minor revisions to the prescribed instrument approach procedure would be effected in conjunction with the actions proposed herein, but operational complexity would not be increased nor would aircraft performance or present landing minimums be adversely affected.

Specific details of the changes to procedures that would be required may be examined by contacting the Chief, Airspace Branch, Air Traffic Division, Central Region, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief. Any date, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The public Docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on March 2, 1965.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 65-2618; Filed, Mar. 15, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-CE-25]

CONTROL ZONE, TRANSITION AREA, AND CONTROL AREA EXTENSION

Proposed Alteration, Designation, and Revocation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Huron, S. Dak., terminal area.

The following controlled airspace is presently designated in the Huron, S. Dak., terminal area:

(1) The Huron control zone is designated as that airspace within a 5-mile radius of Huron Municipal Airport; within 2 miles each side of the Huron RBN 235° bearing, extending from the 5-mile radius zone to 12 miles SW of the RBN; and within 2 miles either side of the Huron ILS localizer NW course extending from the 5-mile radius zone to 12 miles NW of the GM.

(2) The Huron control area extension is designated as that airspace within a 20-mile radius of the Huron VOR extending clockwise from 283° to the 333° radials of the VOR and within a 15-mile radius of the Huron VOR extending clockwise from the 333° to the 283° radials of the VOR.

The Federal Aviation Agency, having completed a comprehensive review of the terminal airspace structure requirements in the Huron terminal area, including studies attendant to the implementation of the provisions of Amendments 60-21 (26 F.R. 570) and 60-29 (27 F.R. 4012) of Part 60 of the Civil Air Regulations, proposes to take the following airspace actions:

(1) Revoke the Huron, S. Dak., control area extension.

(2) Redesignate the Huron, S. Dak., control zone as the airspace within a 5-mile radius of Howes Airport, Huron, S. Dak. (latitude 44°23'03" N., longitude 98°13'39" W.); and within 2 miles each side of the Huron VOR 134° radial, extending from the 5-mile radius zone to the VOR.

(3) Designate a Huron, S. Dak., transition area as that airspace extending upward from 700 feet above the surface within 7 miles NE and 8 miles SW of the Huron ILS localizer NW and SE courses extending from 6 miles SE to 14 miles NW of the outer marker.

The proposed control zone would provide controlled airspace for departing aircraft during their climb to 1,200 feet above the surface and for aircraft executing prescribed instrument approach procedures during their descent below 1,000 feet above the surface.

The 700-foot floor transition area would provide controlled airspace for the procedure turn areas of the prescribed instrument approach procedures and for the holding patterns at the VOR and outer marker facilities. It will also provide controlled airspace for arriving aircraft during their descent to 1,000 feet above the surface.

No revisions to prescribed instrument approach procedures will be required in conjunction with the action proposed herein.

Floors of the airways that traverse the transition area proposed herein would automatically coincide with the floors of the transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The public Docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on March 2, 1965.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 65-2619; Filed, Mar. 15, 1965; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 15521; FCC 65-194]

ANTENNA SYSTEM FOR FM BROADCAST STATIONS; HORIZONTAL AND CIRCULAR OR ELLIPTICAL POLARIZATION

Notice of Proposed Rule Making

1. The Commission has under consideration its notice of proposed rule making (FCC 64-573) issued in this proceeding on June 25, 1964 and published in the FEDERAL REGISTER on June 30, 1964

(29 F.R. 8233) in which it invited comments and data on a proposal to add the following to the text of § 73.316(a): "Stations authorized as of September 10, 1962 with powers in excess of those specified in § 73.211 or their equivalents, will not be permitted to operate with vertically polarized effective radiated power in excess of those maximum powers or their equivalents listed in that section."

The present rule reads as follows: "It shall be standard to employ horizontal polarization; however, circular or elliptical polarization may be employed if desired. Clockwise or counterclockwise rotation may be used. The supplemental vertically polarized effective radiated power required for circular or elliptical polarization shall in no event exceed the effective radiated power authorized." [1]

Thus, it was proposed that stations which were super-maximum (those which have power in excess of the maximum in § 73.211 or the equivalents of these powers and antenna heights), some of which are also short-spaced with respect to one or more other FM stations, would not be permitted to employ vertical power in excess of the maximum authorized for the class of station involved even though the power in the horizontal plane was above these maximums.

2. It was stated in the Notice that we would continue to permit FM stations to employ power in the vertical plane equal to that authorized for the horizontal up to the maximum permissible for the class of station but that we were reluctant to do the same for the super-maximum stations until we had more information on the effect of adding a vertical component of power on the potential interference to other stations. Comments and measurement data were filed by the following parties: Mid-States Broadcasting Corp., licensee of FM Stations WSWM, WQDC, WABX, and WGMZ, all in Michigan, KCBH–FM, Beverly Hills, Calif., Chronicle Publishing Co., licensee of KRON–FM, San Francisco, Calif., KBRG, San Francisco, Calif., Kaiser Broadcasting Corp., licensee of KFOG, San Francisco, Calif., National Association of FM Broadcasters (NAFMB), Triangle Publications, Inc., licensee of WNHC–FM, New Haven, Conn., Pacifica FM, Inc., licensee of KPEN, San Francisco, and KMLA Broadcasting Corp., licensee of KMLA, Los Angeles, Calif. All but Mid-States oppose the proposed amendment to the rules. Triangle and Pacifica submitted measurements in support of their comments.

3. The party supporting the proposal urges that no increase in effective radiated power beyond the present rules be authorized and in addition that if a vertically polarized antenna is to be used, the power be divided between the horizontally polarized antenna and the vertical one. In support of these requests the party states that cancellation and addition of wave fronts due to the addition of vertically polarized power will cause loss of signal in some areas and create interference in others. Finally, this party submits that service to FM automobiles should come about through improved reception techniques rather than transmission techniques which tend to add questionable characteristics into the FM spectrum.

4. The parties opposing the amendment of the rule, most of which are super-maximum stations in the Los Angeles and San Francisco areas, advanced various reasons in opposition. They point out that the proposal would seriously limit the benefits of vertical polarization, especially in areas of rugged terrain such as prevail in some parts of California. They submit that in "grandfathering" in the super-maximum stations the Commission recognized the need for greater power to serve extensive urbanized areas and rugged terrain. It is urged that several super-maximum stations have had experience with vertical polarization (15 out of 19 Class B stations in the San Francisco area are super-maximum) and that they report it to be quite helpful in minimizing multipath FM distortion problems and improving reception by mobile receivers without any noted increase in interference. They argue that because of the great reduction in power due to high antenna heights generally used in the areas, the many Class A stations which operate often within the 1 mv/m contours of these stations, and the improvements made in the facilities of other stations as a result of the Fourth Report and Order in Docket 14185, the use of vertical polarization is the only partial relief these stations have to improve their service to the public. From the technical point of view they contend that vertically polarized signals are essentially the same as horizontally polarized ones within radio line-of-sight but that they fall off more rapidly at greater distances. Thus, they should not significantly increase co-channel interference but would provide a more uniform field where hills, mountains, large buildings, etc., present multipath and shadow conditions.

5. NAFMB states that they have concluded from a number of measurements conducted by member stations (not submitted) that power in the vertical plane in addition to the horizontal power improves service within the station's coverage substantially but does not significantly increase the potential of interference to other stations. They urge that the proposal would foreclose many FM stations from utilizing power in the vertical plane equal to that in the horizontal plane and that a particular advantage of circular polarization (which can be properly accomplished only by the addition of an equal vertical component) is the resulting improvement in automobile reception.

6. Triangle submits the results of a measurement program involving WNHC–FM which is authorized to operate with both horizontal and vertical power at the present time. The purpose of the program was to determine the overall effect of adding vertically polarized power on the radiated signal of an FM station and to determine whether or not this addition increases the interference potential in the area of home receiving antennas. Measurements were made within the service range of the station in New Haven and Hartford and at distances ranging up to 85 miles in order to determine the impact on both the service fields and interference fields. The conclusions drawn from these measurements with respect to the service fields are as follows:

(a) In the absence of shadowing or diffraction effects, transmission of a vertical component adds little to the signal received on a horizontal receiving antenna but a substantial improvement results in the presence of shadow and diffraction effects.

(b) When receiving antennas have a substantial vertical component, as is the case with auto radios, a substantial improvement is obtained at distances up to 50 miles from the transmitter.

(c) With respect to the interference potential, the conclusion drawn is that the field received at distances of 60 to 80 miles for 10 percent of the time, increases about 12 percent (approximately 1 db) over the horizontal component of the field when horizontally polarized transmissions are used alone.

7. Pacifica FM states that it has operated with elliptical polarization for a period of 9 months and that it has made measurements and observations which lead it to conclude that the addition of a vertical component equal to the horizontal component will in no significant way increase the service range of a station. It contends, however, that such operation does greatly improve coverage within the service range especially in shadowed terrain. The noted improvements were less multipath distortion, better reception in homes and in automobiles, and fewer reception problems. They urge that if such improvements are obtained with elliptical polarization, even better results would be obtained from circular polarization.

8. In conclusion it appears that the use of vertical polarization results in an improvement of service to the public, both in home receivers and in automobile receivers and that the improvement is greatest where the terrain conditions are poor. Furthermore, this improvement does not result in any significant increase in interference to other stations. The measurements of Triangle do show a potential increase in interference fields of about 1 db. However, any station which would be affected by such an increase could itself improve its own service by using vertical polarization and recover any resulting loss. We are, therefore, of the view that our rule governing the use of circular or elliptical polarization should not be changed as proposed but that all stations, whether they are super-maximum or not, should be permitted to add a vertical component of power up to the value of the horizontal component

[1] If a vertical component is added which is equal to the horizontal component and exactly 90 degrees out of phase, the resultant wave is a circularly polarized wave. If the vertical component is not equal to the horizontal or not exactly 90 degrees out of phase, the resultant wave is elliptically polarized.

In view of the above § 73.316(a) will be retained as presently written.[2]

9. *It is ordered*, That this proceeding is terminated.

Adopted: March 10, 1965.

Released: March 11, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-2667; Filed, Mar. 15, 1965; 8:48 a.m.]

[47 CFR Part 74]

[Docket No. 15858]

HIGH POWER TV TRANSLATORS ON UNOCCUPIED ASSIGNMENTS IN THE TABLE OF ASSIGNMENTS

Order Extending Time for Filing Comments

1. The Klix Corp., licensee of television Station KMVT, Channel 11, Twin Falls, Idaho, has on March 9, 1965, requested an extension of time for filing comments in this proceeding from March 15, 1965 to April 15, 1965 and for filing reply comments from March 25, 1965 to April 26, 1965. Petitioner states that it operates KMVT on Channel 11 at Twin Falls, that there are a number of unoccupied assignments within the predicted Grade A contour of the station, and that it cannot, within the allotted time, study the impact the proposal would have on Station KMVT. It further urges that it needs additional time to study the question of the possibility of establishing priorities among various classes of potential translator applicants. The National Association of Broadcasters on the same day filed a similar request but asking an extension to April 1, 1965. NAB states that it has been studying the problem of bringing television service to remote areas and additional service to other areas and that it has scheduled a meeting of its committee for March 10, 1965. It also points out that its annual convention is scheduled for the week of March 22, 1965. NAB therefore urges that an extension beyond this date would be helpful to it.

2. On March 9, 1965, the Brockway Co., licensee of television Station WCNY-TV, Channel 7, Carthage, N.Y., and Mid-America Broadcasting Co., Inc., licensee of Station KSLN-TV, Channel 34, Salina, Kans., filed joint Motion for Continuance of Comment Date in this proceeding until 30 days after such time as the Commission releases its new Table of Assignments contemplated in the Third Report and Order in Docket 14229. These parties urge that the effect of the proposals in this proceeding could be adverse to local stations and that stations cannot determine their particular situations since the Commission is in the process of revising its UHF assignment system.

3. We are of the view that some additional time for filing comments is warranted and believe that an extension of 30 days is reasonable under the circumstances. We do not believe that an indefinite extension, as requested by Brockway and Mid-America, is needed or would serve the public interest. In our view there will not be sufficient substantive differences in the new UHF table from the present one to warrant such a delay in this proceeding, or to have any real effect on the ability of an interested party to file meaningful comments herein. The major difference between the two Tables will be in the number of UHF assignments reserved for educational use. Further, any Table to be adopted would be subject to change by subsequent petitions and so the "particular situation" for a specific station could change from time to time in any event.

3. *Accordingly, it is ordered*, This 10th day of March 1965 that the request of The KLIX Corp. is granted, and that the time for filing comments in this proceeding is extended from March 15, 1965 to April 15, 1965 and the time for filing reply comments from March 25, 1965 to April 26, 1965. *It is further ordered*, That the request of The Brockway Co., and Mid-American Broadcasting Co., Inc. is denied.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Released: March 11, 1965.

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

[F.R. Doc. 65-2668; Filed, Mar. 15, 1965; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-7550]

RECORDS TO BE MADE AND PRESERVED BY CERTAIN EXCHANGE MEMBERS, BROKERS AND DEALERS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to amend Rule 17a-3 (17 CFR § 240.17a-3) under the Securities Exchange Act of 1934 by revising paragraph (a)(11) thereof, and to amend Rule 17a-4 (17 CFR § 240.17a-4) under that Act by revising paragraph (b)(5) thereof, to require that certain members of national securities exchanges and other brokers and dealers prepare a record of the computation of the ratio of aggregate indebtedness to net capital as of the date of the trial balance now required to be made at least once a month and to preserve the record for a period of not less than three years.

In adopting the trial balance requirement it was noted that one of its principal purposes would be to assist in keeping members, brokers and dealers currently informed of their capital positions. The Commission believes that this purpose would be better served if such persons were required to prepare and maintain a computation of the ratio of aggregate indebtedness to net capital within the meaning of Rule 15c3-1 (17 CFR § 240.15c3-1).

Under the proposal a person exempt from Rule 15c3-1 (17 CFR § 240.15c3-1) under the provisions of paragraph (b)(1) thereof would not be required to prepare a computation, and a person exempt from the rule because he is a member of one or more of the exchanges specified in paragraph (b)(2) would be required to make and preserve a computation only in accordance with the rules of one of such exchanges of which he is a member.

The requirement of the proposed amendments that the record of the computation of aggregate indebtedness to net capital be made currently at least once a month should not be construed as relieving any person required to make such computation from the responsibility of complying at all times with the provisions of the net capital rules to which he is subject.

Since the purpose of the calculation is to show whether the broker-dealer is in compliance with Rule 15c3-1 (17 CFR § 240.15c3-1), detailed computations may be omitted if the most stringent application of the provisions of the rule would not reduce net capital below the minimum requirement. For example, in preparing a schedule of marketable securities, groupings in accordance with the classifications of paragraph (c)(2)(C) of Rule 15c3-1 (17 CFR § 240.15c3-1(c)(2)(iii)) need not be made if the market value of all securities is subjected to a percentage deduction of 30 per cent; and, similarly, supporting analyses of assets only partially allowable or otherwise of questionable value need not be made if such assets are excluded in their entirety. The Commission is also considering publication of a guide to show how the computation would be made by a representative broker-dealer whose business required calculations under many of the provisions of the rule.

The above action would be taken under the provisions of the Securities Exchange Act of 1934, particularly sections 17(a) and 23(a) thereof.

The text of subparagraph (11) to paragraph (a) of Rule 17a-3 (17 CFR § 240.17a-3) as proposed to be revised is as follows:

§ 240.17a-3 Records to be made by certain exchange members, brokers and dealers.

(a) * * *

(11) A record of the proof of money balances of all ledger accounts in the form of trial balances and a record of the computation of the ratio of aggregate indebtedness to net capital as of the trial balance date pursuant to § 240.15c3-1; provided, however, (i) the computa-

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[2] There has been some misunderstanding concerning this rule with respect to the location of the vertical antenna, if a separate one is used. It is intended that the vertical antenna will be close to the horizontal antenna in both the vertical and horizontal directions.

[3] Commissioners Hyde and Bartley absent.

tion of the ratio of aggregate indebtedness to net capital need not be made by any member, broker or dealer exempt from § 240.15c3–1 by subparagraph (b) (1) thereof; and (ii) any member of an exchange whose members are exempted from § 240.15c3–1 by subparagraph (b) (2) thereof shall make a record of the computation of the ratio of aggregate indebtedness to net capital as of the trial balance date in accordance with the capital rules of at least one of the exchanges therein listed of which he is a member. Such trial balances and computations of ratios shall be prepared currently at least once a month.

(Secs. 17(a) and 23(a), 48 Stat. 897, 901, as amended, 15 U.S.C. 78q, 78w)

The text of subparagraph (5) to paragraph (b) of Rule 17a–4 (17 CFR § 240.17a–4) as proposed to be revised is as follows:

§ 240.17a–4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(b) * * *

(5) All trial balances, computations of the ratio of aggregate indebtedness to net capital (and working papers in connection therewith), financial statements, branch office reconciliations, and internal audit working papers, relating to the business of such member, broker or dealer, as such.

(Secs. 17(a) and 23(a), 48 Stat. 897, 901, as amended, 15 U.S.C. 78q, 78w)

All interested persons are invited to submit their views and comments on the proposed amendments in writing to the Securities and Exchange Commission, Washington, D.C., 20549, on or before April 5, 1965. Unless a person submitting any such comments or suggestions requests in writing that they be held confidential they will be public records available for public inspection.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

MARCH 10, 1965.

[F.R. Doc. 65–2630; Filed, Mar. 15, 1965; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[344.3]

IMPORTED WATCH MOVEMENTS

Position Adjustments

MARCH 10, 1965.

In the case of Benrus Watch Co., Inc., et al. v. United States, decided June 30, 1964, and published in the weekly Treasury Decisions of July 9, 1964, as C.D. 2469, the United States Customs Court held that a watch movement has not been adjusted to position within the meaning of paragraph 367, Tariff Act of 1930, unless the following three conditions have been met:

(1) Testing for time in not less than three positions;

(2) Testing for not less than 24 hours in each of the three or more positions in which it has been tested; and

(3) After testing the movement meets a tolerance of not more than 15 seconds of perfect time in 24 hours in each of the three or more positions in which it has been tested.

The decision in the Benrus case is applicable likewise to the watch movements provided for in Schedule 7, Part 2, Subpart E, of the revised Tariff Schedules of the United States, which became effective August 31, 1963.

Customs officers must determine whether or not imported watch movements have, or have not, been adjusted within the meaning of the law as interpreted by the court in the Benrus case. To insure that United States customs officers will be furnished with information upon which such determinations may be made, the Bureau proposes to specify the kind of information to be submitted and the method for submitting the information. Accordingly, interested persons or firms are requested to submit to the Bureau suggestions as to what information it would be practicable to obtain from manufacturers, assemblers, or others having knowledge of the facts for submission to customs officers which will assist them in determining whether or not imported watch movements have been tested or manipulated in a manner and to an extent resulting in their being adjusted within the meaning of the Benrus case. Suggestions are also requested as to the method or form in which the information should be submitted to customs.

Consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Acting Commissioner of Customs, Bureau of Customs, Washington, D.C., 20226. To insure consideration of such communications, they must be received in the Bureau not later than 30 days from the publication of this notice. No hearings will be held.

[SEAL] LESTER D. JOHNSON,
Acting Commissioner of Customs.

[F.R. Doc. 65-2653; Filed, Mar. 15, 1965; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. LA 0155815]

CALIFORNIA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Land and Proposed Withdrawal and Reservation of Additional Lands

MARCH 8, 1965.

The Forest Service, United States Department of Agriculture, filed an application for withdrawal from location and entry under the mining laws, serial number Los Angeles 0155815 on February 28, 1958. These lands have previously been withdrawn for the San Bernardino Forest Reserve by Presidential Proclamation dated February 25, 1893, and as such have been open to entry under the mining laws.

Notice of the proposed withdrawal and reservation of the land under this application, LA 0155815, was published as F.R. Doc. 62-9876; Filed October 2, 1962; 8:48 a.m., on pages 9778 and 9779 of the Wednesday Issue, October 3, 1962.

The applicant agency has amended its application to delete therefrom certain of the lands originally filed for. Therefore, pursuant to the Regulations 43 CFR Part 2311, those lands deleted from the original application will, at 10 a.m., on April 16, 1965, be relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

SAN BERNARDINO MERIDIAN, CALIF.

T. 5 S., R. 3 E.,
Sec. 9, NW¼SE¼NW¼, S½SE¼NW¼, S½NE¼SE¼NW¼, NW¼NE¼SE¼NW¼.
T. 2 N., R. 6 W.,
Sec. 31, SE¼NE¼, N½NW¼SE¼.

The total area in this termination aggregates 97.50 acres.

The applicant agency has further amended its application, LA 0155815, for the withdrawal of the additional lands described below from entry under the mining laws, subject, however, to existing withdrawals and to valid existing rights. These lands have previously been withdrawn for the San Bernardino Forest Reserve by Presidential Proclamation dated February 28, 1893, and as such have been open to entry under the mining laws.

The applicant desires the exclusion of mining activity to permit the use of such lands for administrative sites, public service sites, recreation areas, campgrounds, or other public purposes as set forth specifically with regard to each area or description. Such uses are incompatible with mineral development.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal of the additional lands may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 Eighth Street, Box 723, Riverside, Calif., 92502.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the amended application are:

SAN BERNARDINO MERIDIAN, CALIF.

T. 5 S., R. 3 E.,
Sec. 9, SW¼SW¼NW¼NE¼, NW¼NW¼SW¼NE¼, NE¼NE¼SE¼NW¼.
T. 2 N., R. 6 W.,
Sec. 31, S½NE¼NW¼.

The total area of additional lands in the amended application contains 27.50 acres.

HALL H. MCCLAIN,
Manager.

[F.R. Doc. 65-2645; Filed, Mar. 15, 1965; 8:47 a.m.]

[U.S. Survey 2538-B]

TOWNSITE OF KODIAK, ALASKA

Notice of Sale

MARCH 9, 1965.

1. *Statutory authority.* The lots in the Kodiak Townsite (U.S. Survey 2538-B) will be disposed of under section 2381, United States Revised Statutes (43 U.S.C. Sec. 712). The townsite plat of Dependent Resurvey of a portion of U.S. Survey 2538-A and Extension of U.S. Survey 2538-B, East Addition of Townsite of Kodiak, was accepted on February 20, 1958, and officially filed on April 17, 1958.

2. *Lots and minimum prices.* The lots which will be offered for sale and minimum prices thereof are shown below.

3. *Public sale.* The lots will be offered for sale by the Superintendent of Sales, Bureau of Land Management, Anchorage, Alaska, or his representative at public outcry to the highest bidder in the Magistrates Chambers in the Court House at Kodiak, Alaska on April 28, 1965, beginning at 8 p.m. The sale will

be continued as long as may be necessary until all the lots have been offered.

4. *Payments.* No lot shall be sold for less than the minimum price. Full payment may be made in cash on the date of the sale, or one-fourth of the purchase price may be paid in cash at that time and the balance is not to exceed three equal annual installments, with the interest, must be paid to the Manager, Anchorage District and Land Office, Cordova Building, 555 Cordova Street, Anchorage, Alaska, 99501.

5. *Citizenship requirements.* Every individual purchasing a lot will be required to furnish evidence that he is a citizen of the United States, or that he has declared his intention to become such a citizen, and every corporation purchasing a lot will be required to furnish evidence, including a certified copy of its articles of incorporation, showing that it was organized under the laws of the United States or of some state, territory, or possession thereof, and that it is authorized to hold real estate in Alaska.

6. *Manner of sale.* Bids and payments may be made in person or by agent, but may not be made by mail nor at any time, or place other than that fixed by these regulations. No bids will be made in increments of less than $10.

7. *Authority of officer conducting the sale.* The officer conducting the sale is hereby authorized to reject any and all bids for any lot, and to suspend, adjourn, or postpone the sale of any lot or lots. After all the lots have been offered, the sale will be adjourned or closed, as the officer in charge may deem proper.

8. *Forfeitures for nonpayment.* If any person who has made partial payment on a lot fails to make any succeeding payment required under these regulations at the date such payment becomes due, the money theretofore paid and his right to the lot will be forfeited.

9. *Disposal of unsold lots after sale has been adjourned.* Lots remaining unsold upon adjournment or closure of this sale will be offered again at 11 a.m. on Friday, May 7, 1965, when and thereafter it will be resumed in the Anchorage Land Office on the first floor of the Cordova Building for another one-hour period or until adjourned for resumption at 11 a.m. on succeeding Fridays for additional one-hour periods until all lots are sold or until the sale is otherwise terminated. Any person or corporation may purchase as many lots for which he or they are the successful bidder, with no limitations to number during the Friday sale in the Anchorage Land Office.

10. *Reservations.* Patents for the lots, when issued, will contain the reservations of rights-of-way for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. Sec. 945), and for the construction of railroads and telegraph and telephone lines as provided by the Act of March 12, 1914 (38 Stat. 305; 48 U.S.C. Secs. 301–302, 303–308), and for oil, gas, and all other mineral deposits.

11. *Warning.* All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously or which will, in any way, hinder or embarrass the sale. Any person so offending will be prosecuted under section 50 of the Criminal Code of the United States (18 U.S.C. Sec. 113).

Lot number	Block	Area in square feet	Appraised price
1 and 2	42	10,000	$720.00
3	44	5,000	750.00
7 and 8	48	10,000	1,000.00
1, 2, and 3 less R/W	50	14,444	620.00
19 and 20	51	9,032	1,130.00

GEORGE E. M. GUSTAFSON,
Superintendent of Sales.

[F.R. Doc. 65-2658; Filed, Mar. 15, 1965; 8:48 a.m.]

COLORADO

Amended Notice of Filing of Colorado Protraction Diagrams

MARCH 8, 1965.

Notice of filing of Colorado Protraction Diagrams 6, 13, and 30 published in FEDERAL REGISTER of March 4, 1965, as reads:

"Effective March 15, 1965," is amended to read:

"Effective April 15, 1965,".

W. F. MEEK,
Land Office Manager.

[F.R. Doc. 65-2646; Filed, Mar. 15, 1965; 8:47 a.m.]

[Serial Nos. Colorado 083969, 086592, 093687]

COLORADO

Order Providing for Opening of Public Lands

MARCH 8, 1965.

1. In exchange of land made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272, 43 U.S.C. 315g) as amended, the lands described below have been conveyed to the United States:

a. SURFACE AND MINERAL ESTATE CONVEYED

Sixth Principal Meridian, Colorado

T. 5 N., R. 99 W.,
Sec. 6, lots 15 and 16.
T. 6 N., R. 99 W.,
Sec. 16, all;
Sec. 31, that portion of Tract 38A lying in the SW¼, exclusive of lots 12 and 13.
T. 7 N., R. 99 W.,
Tract No. 38, all.
T. 5 N., R. 100 W.,
Sec. 1, lots 9, 10, and 11.
T. 6 N., R. 100 W.,
Sec. 36, lots 11, 12, 13, 16, 17, and 18.
T. 7 N., R. 100 W.,
Tract No. 38, all;
Tract No. 39, all.
T. 8 N., R. 100 W.,
Tract No. 39, all.
T. 7 N., R. 101 W.,
Tract No. 37, all.
T. 8 N., R. 101 W.,
Sec. 6, lots 17 and 18;
Tract No. 37, all;
Tract No. 39, all.
T. 9 N., R. 101 W.,
Sec. 31, lots 10, 11, 12, 13, 16, 17, 18, and 19.
T. 7 N., R. 102 W.,
Tract No. 37, all.
T. 8 N., R. 102 W.,
Sec. 1, lots 5, 6, 7, 8, 11, 12, 14, and 16;
Tract No. 38, all.
T. 9 N., R. 102 W.,
Sec. 16, lots 2, 4, 9, 10, 11, 12, 20, and 21;
Sec. 21, lot 3;
Sec. 22, lots 2 and 3;
Sec. 36, lots 2, 4, 6, 8, 9, 10, 11, 12, 13, 16, 17, and 18.
T. 10 N., R. 102 W.,
Tract No. 37, all;
Tract No. 38A, all.
T. 8 N., R. 103 W.,
Tract No. 38, all.
T. 9 N., R. 103 W.,
Sec. 16, all.
T. 10 N., R. 103 W.,
Sec. 1, lots 5, 6, 7, and 8.
T. 11 N., R. 103 W.,
Sec. 36, S½N½, S½.
T. 6 N., R. 104 W.,
Tract No. 37, all.
T. 8 N., R. 104 W.,
Sec. 36, all.
T. 10 N., R. 104 W.,
Sec. 1, lots 13, 14, 15, 16, 17, 18, 20, and 22.
T. 11 N., R. 104 W.,
Sec. 36, lots 9, 11, 13, 16, 19, 20, 21, 22, 23, 24, 25, and 26.

New Mexico Principal Meridian, Colorado

T. 32 N., R. 1 E.,
Sec. 16, S½.

b. SURFACE ESTATE ONLY CONVEYED

Sixth Principal Meridian, Colorado

T. 7 N., R. 101 W.,
Sec. 26, lots 2, 4, and 6;
Sec. 27, lot 2;
Sec. 34, lots 1 and 4;
Sec. 35, lots 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 18, 20, and 22.
T. 9 N., R. 102 W.,
Sec. 15, lots 4, 5, 6, 9, 10, 11, and 12;
Sec. 21, lot 1.

c. SURFACE ESTATE AND MINERAL ESTATE, EXCEPT OIL AND GAS

Sixth Principal Meridian, Colorado

T. 6 N., R. 98 W.,
Sec. 4, lots 10, 12, and 14;
Sec. 5, lots 20 and 22;
Sec. 8, lots 1, 2, 10, 11, 12, 13, 20, and 22;
Sec. 9, lots 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 15, and 17.

The areas described under a, b, and c aggregate 22,532 acres.

2. The lands described above in the Sixth Principal Meridian, Colo., lie north of Artesia, Colo., in the vicinity of the Dinosaur National Monument and along the Green and Yampa Rivers. The topography varies from gently undulating to steep and precipitous. The soils vary from sandy loam to clays, with numerous rock outcrops. Vegetation varies from sagebrush-grasslands and saltbush to pinon-juniper.

The lands described above in the New Mexico Principal Meridian, Colo., lie 20 miles southeast from Pagosa Springs, Colo., on Vigil Mesa. The topography varies from moderately level to steep and precipitous. Vegetation is mostly open Ponderosa Pine with scattered sagebrush and oakbrush parks.

3. No application for these lands will be allowed under the Homestead, desert lands, or any other nonmineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application or shall be so classified upon consideration of a petition-application. Any petition-application that is filed will be considered on its merits. The lands will not be subject to

occupancy or disposition until they have been classified.

4. Subject to any existing valid rights and the requirements of applicable law, the land described is hereby opened to the filing of petition-applications, selections, and locations in accordance with the following:

a. Petition-applications and selections under the non-mineral public land laws, except applications under the Small Tract Act, may be presented to the Manager mentioned below, beginning on the date of this order. Such petition-applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid petition-applications and selections under the nonmineral public land laws, and applications and offers under the mineral leasing laws for those lands in which the leasable minerals have been conveyed presented prior to 10:00 a.m. April 13, 1965 will be considered as simultaneously filed at that hour. Rights under such petition-applications and selections filed after that hour will be governed by the time of filing.

b. Those lands in which locatable minerals have been conveyed will be open to location under the United States mining laws, beginning at 10:00 a.m. on April 13, 1965.

5. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing petition-applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

6. Inquiries concerning the lands should be addressed to the Land Office Manager, Bureau of Land Management, Room 700, Insurance Exchange Building, 910 15th Street, Denver, Colo., 80202.

J. ELLIOTT HALL,
Chief, Lands and Minerals.

[F.R. Doc. 65-2647; Filed, Mar. 15, 1965; 8:47 a.m.]

Office of the Secretary

[Order No. 2886, Amdt. 1]

GEOLOGICAL SURVEY

Change in Effective Date for Transfer of Functions

MARCH 10, 1965.

The effective date, in section 2 of Order 2886, February 26, 1965, for the transfer of functions relating to Minerals Exploration to the Geological Survey, is hereby changed to July 1, 1965.

JOHN A. CARVER, JR.,
Acting Secretary of the Interior.

[F.R. Doc. 65-2648; Filed, Mar. 15, 1965; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Order 91, Amdt. 1; Organization and Function Supp.]

WEATHER BUREAU

Organization and Function

This material amends the material appearing at 29 F.R. 5482-5484 of April 23, 1964.

The Organization and Function Supplement of April 15, 1964, to Department Order No. 91, is hereby amended as follows:

1. Section 2.01-7 is amended to read:

SEC. 2. *Organization.* 01 * * *

7. Office of Administration and Technical Services:

Director, Administration and Technical Services.
Administrative Operations Division.
Budget and Accounting Division.
Computation Division.
Facilities and Maintenance Division.
Management and Organization Division.
Personnel Division.
Scientific Documentation Division.

2. Section 3.05 is amended to read:

SEC. 3. *Office of Chief of Bureau.* * * *

.05 The Office of Policy Planning establishes program requirements; prepares, maintains, and keeps current the annual and long range technical and operating plans of the Bureau; conducts special analyses and studies of Weather Bureau operations to provide bases for management decisions relating to cost effectiveness; and provides staff support to the Chief of Bureau in the development of program policy and in long range organizational planning and resource allocation.

3. Section 9.01 is amended to read:

SEC. 9. *Office of Administration and Technical Services.*

.01 The Office of Administration and Technical Services establishes policies, standards, and basic procedures for administrative and technical services which include budget, fiscal, personnel, procurement and supply, management and organization, administrative services, safety, scientific documentation, library, installation and maintenance of field instruments and equipment, and centralized computational services; exercises technical supervision over these services in the field; and provides all of the foregoing services (other than installation and maintenance of field instruments and equipment) to the headquarters organization. The Office of the Director, Office of Administration and Technical Services, includes an Internal Audit Staff which conducts independent appraisal of the effectiveness of the Bureau's operations.

4. Section 9.02 is amended by addition of a new subsection 7 to read:

SEC. 9. *Office of Administration and Technical Services.* * * *

7. The Computation Division provides management and technical advisory capabilities in ADP throughout the Weather Bureau; coordinates ADP sharing requests by internal and external users (other Government agencies, private industry, etc.) for all Weather Bureau computers; represents the Weather Bureau on inter-bureau or inter-agency groups concerned primarily with ADP; establishes ADP policies, standards and procedures on a Bureau-wide basis especially as they affect computer acquisition, obtaining of ADP services, programing systems, and ADP methods and performance; establishes and monitors a uniform reporting system to aid in the review, evaluation, and auditing of ADP installations throughout the Bureau; conducts ADP studies having Bureau-wide applicability; operates an ADP service bureau function in the Washington, D.C., area providing computer processing on the centralized computing facility to all areas of the Weather Bureau on a reimbursable basis; provides, as a service, programers and ADP systems analysts whenever line areas of the Weather Bureau require and request such services; and coordinates the use and operation of all Weather Bureau computer installations and operates computer installations, in addition to the Bureau's centralized computing facility, when practical and when it is determined to be in the best interest of the Weather Bureau as a whole.

Effective date: March 2, 1965.

HERBERT W. KLOTZ,
Assistant Secretary for Administration.

[F.R. Doc. 65-2626; Filed, Mar. 15, 1965; 8:45 a.m.]

[Dept. Order 109, Amdt. 2; Organization and Function Supp.]

BUREAU OF PUBLIC ROADS

Organization and Function

This material amends the material appearing at 29 F.R. 25-27 of January 1, 1964 and 29 F.R. 13542 of October 1, 1964.

The Organization and Function Supplement of December 12, 1963, to Department Order No. 109 is hereby amended as follows:

Section 2.02-3 is amended to read:

SEC. 2. *Organization* * * *

.02 * * *

3. Office of Administration:

Program Analysis Division.
Budget Division.
Management and Organization Division.
Finance Division.
Personnel and Training Division.
Administrative Services Division.
Automatic Data Processing Division.

Effective date: March 1, 1965.

HERBERT W. KLOTZ,
Assistant Secretary for Administration.

[F.R. Doc. 65-2627; Filed, Mar. 15, 1965; 8:45 a.m.]

RICHARD V. FORD

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months:

A. Deletions: Smith, Kline, and French.
B. Additions: None.

This statement is made as of February 24, 1965.

RICHARD V. FORD.

FEBRUARY 24, 1965.

[F.R. Doc. 65-2628; Filed, Mar. 15, 1965; 8:45 a.m.]

RICHARD P. STEINER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months:

A. Deletions: No change.
B. Additions: No change.

This statement is made as of February 21, 1965.

RICHARD P. STEINER.

FEBRUARY 21, 1965.

[F.R. Doc. 65-2629; Filed, Mar. 15, 1965; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

USE OF BYPRODUCT MATERIAL AND SOURCE MATERIAL

Products Intended for Use by General Public (Consumer Products)

Criteria for the approval of products intended for use by the general public containing byproduct material and source material. This notice sets forth the essential terms of the Commission's policy with respect to approval of the use of byproduct material and source material in products intended for use by the general public (consumer products) without the imposition of regulatory controls on the consumer-user. This is accomplished by the exemption, on a case-by-case basis, of the possession and use of the approved items from the licensing requirements for byproduct and source material of the Atomic Energy Act of 1954, as amended, and of the Commission's regulations "Licensing of Byproduct Material", 10 CFR Part 30 and "Licensing of Source Material", 10 CFR Part 40.

1. At the present time it appears unlikely that the total contribution to the exposure of the general public to radiation from the use of radioactivity in consumer products will exceed small fractions of limits recommended for exposure to radiation from all sources. Information as to total quantities of radioactive materials being used in such products and the number of items being distributed will be obtained through record-keeping and reporting requirements applicable to the manufacture and distribution of such products. If radioactive materials are used in sufficient quantities in products reaching the public so as to raise any question of population exposure becoming a significant fraction of the permissible dose to the gonads, the Commission will, at that time, reconsider its policy on the use of radioactive materials in consumer products.

2. Approval of a proposed consumer product will depend upon both associated exposures of persons to radiation and the apparent usefulness of the product. In general, risks of exposure to radiation will be considered to be acceptable if it is shown that in handling, use and disposal of the product it is unlikely that individuals in the population will receive more than a small fraction, less than a few hundredths, of individual dose limits recommended by such groups as the International Commission on Radiological Protection (ICRP), the National Council on Radiation Protection and Measurements (NCRP), and the Federal Radiation Council (FRC), and that the probability of individual doses approaching any of the specified limits is negligibly small. Otherwise, a decision will be more difficult and will require a careful weighing of all factors, including benefits that will accrue or be denied to the public as a result of the Commission's action. Factors that may be pertinent are listed in paragraphs 9 and 10, below.

3. It is considered that as a general rule products proposed for distribution will be useful to some degree. Normally the Commission will not attempt an extensive evaluation of the degree of benefit or usefulness of a product to the public. However, in cases where tangible benefits to the public are questionable and approval of such a product may result in widespread use of radioactive material, such as in common household items, the degree of usefulness and benefit that accrues to the public may be a deciding factor. In particular, the Commission considers that the use of radioactive material in toys, novelties, and adornments may be of marginal benefit.

4. Applications for approval of "off-the-shelf" items that are subject to mishandling especially by children will be approved only if they are found to combine an unusual degree of utility and safety.

5. The Commission has approved certain long standing uses of source material, most of which antedate the atomic energy program. These include:

(1) Use of uranium to color glass and glazes for certain decorative purposes;

(2) Thorium in various alloys and products (gas mantles, tungsten wire, welding rods, optical lenses, etc.) to impart desirable physical properties; and

(3) Uranium and thorium in photographic film and prints.

6. The Commission has also approved the use of tritium as a substitute luminous material for the long standing use of radium for this purpose on watch and clock dials and hands.

7. The Commission has approved additional uses of byproduct and source material in consumer products. These include the following:

(1) Tritium in automobile lock illuminators;

(2) Tritium in balances of precision;

(3) Uranium as shielding in shipping containers; and

(4) Uranium in fire detection units.

8. In approving uses of byproduct and source materials in consumer products, the Commission establishes limits on quantities or concentrations of radioactive materials and, if appropriate, on radiation emitted. In some cases other limitations, such as quality control and testing, considered important to health and safety are also specified.

PRINCIPAL CONSIDERATIONS WITH RESPECT TO EVALUATION OF PRODUCTS

9. In evaluating proposals for the use of radioactive materials in consumer products the principal considerations are:

(a) The potential external and internal exposure of individuals in the population to radiation from the handling, use and disposal of individual products;

(b) The potential total accumulative radiation dose to individuals in the population who may be exposed to radiation from a number of products;

(c) The long-term potential external and internal exposure of the general population from the uncontrolled disposal and dispersal into the environment of radioactive materials from products authorized by the Commission; and

(d) The benefit that will accrue to or be denied the public because of the utility of the product by approval or disapproval of a specific product.

10. The general criteria for approval of individual products are set forth in paragraph 2, above. Detailed evaluation of potential exposures would take into consideration the following factors together with other considerations which may appear pertinent in the particular case:

(a) The external radiation levels from the product.

(b) The proximity of the product to human tissue during use.

(c) The area of tissue exposed. A dose to the skin of the whole body would be considered more significant than a similar dose to a small portion of the skin of the body.

(d) Radiotoxicity of the radionuclides. The less toxic materials with a high permissible body burden, high concentration limit in air and water, would be considered more favorably than materials with a high radiotoxicity.

(e) The quantity of radioactive material per individual product. The smaller the quantity the more favorably would the product be considered.

(f) Form of material. Materials with a low solubility in body fluids will be considered more favorably than those with a high solubility.

(g) Containment of the material. Products which contain the material under very severe environmental conditions will be considered more favorably than those that will not contain the material under such conditions.

(h) Degree of access to product during normal handling and use. Products which are inaccessible to children and other persons during use will be considered more favorably than those that are accessible.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Administrative Procedure Act, sec. 3, 60 Stat. 238; 5 U.S.C. 1002)

Dated at Washington, D.C., this 8th day of March 1965.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 65-2616; Filed, Mar. 15, 1965; 8:45 a.m.]

[Docket No. 50-58]

OKLAHOMA STATE UNIVERSITY

Notice of Issuance of Construction Permit

Please take notice that no request for a formal hearing having been filed following publication of the notice of proposed action in the Federal Register, the Atomic Energy Commission has issued Construction Permit No. CPRR-85 authorizing Oklahoma State University to move its Model AGN-201 nuclear reactor from its present location in the Chemical Engineering Building to the new Engineering Building on the University's campus in Stillwater, Okla.

The permit, as issued, is as set forth in the Notice of Proposed Issuance of Construction Permit and Facility License Amendment published in the Federal Register on February 17, 1965, 30 F.R. 2162.

Dated at Bethesda, Md., this 5th day of March 1965.

For the Atomic Energy Commission.

Roger S. Boyd,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[F.R. Doc. 65-2657; Filed, Mar. 15, 1965; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 15911]

AEROVIAS ECUATORIANAS, C.A.

Notice of Prehearing Conference

Application of Aerovias Ecuatorianas, C.A., in Docket 15911 for a foreign air permit to engage in the foreign air transportation of persons, property, and mail between any point or points in Ecuador and Miami, Fla., via Bogota, Colombia.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on March 25, 1965, at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Barron Fredericks.

Dated at Washington, D.C., March 10, 1965.

[SEAL] Francis W. Brown,
Chief Examiner.

[F.R. Doc. 65-2659; Filed, Mar. 15, 1965; 8:48 a.m.]

[Docket 15684]

CHICAGO HELICOPTER AIRWAYS, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 15, 1965, at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner William J. Madden.

In order to facilitate the conduct of the conference, interested parties are instructed to submit to the Examiner and other parties on or before March 24, 1965: (1) Formal motions with respect to the proceeding, including motions to consolidate or expand (such motions should be filed separately and comply with the Board's Rules of Practice, with 20 copies being filed with the Docket Section); (2) proposed statements of issues; (3) proposed stipulations, if any; (4) requests for information; (5) statements of positions of parties; and (6) proposed procedural dates.

Dated at Washington, D.C., March 11, 1965.

[SEAL] Francis W. Brown,
Chief Examiner.

[F.R. Doc. 65-2660; Filed, Mar. 15, 1965; 8:48 a.m.]

[Docket 15861]

COMPANIA PERUANA INTERNACIONAL DE AVIACION, S.A.

Notice of Hearing

Notice hereby is given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 5, 1965, at 10 a.m., e.s.t., in Room 925, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Examiner.

For further information regarding the issues involved herein, interested persons may refer to the various orders of the Board, the prehearing conference report, and other documents, which are on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 11, 1965.

[SEAL] Herbert K. Bryan,
Hearing Examiner.

[F.R. Doc. 65-2661; Filed, Mar. 15, 1965; 8:48 a.m.]

[Docket 15073]

DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (LUFTHANSA GERMAN AIRLINES)

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding previously assigned to be held on June 17, 1964, has been reassigned to be held on April 12, 1965, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report served on April 21, 1964, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 10, 1965.

[SEAL] Ross I. Newmann,
Hearing Examiner.

[F.R. Doc. 65-2662; Filed, Mar. 15, 1965; 8:48 a.m.]

[Docket 15683]

LOS ANGELES AIRWAYS, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 13, 1965, at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner William J. Madden.

In order to facilitate the conduct of the conference, interested parties are instructed to submit to the Examiner and other parties on or before March 24, 1965: (1) Formal motions with respect to the proceeding, including motions to consolidate or expand (such motions should be filed separately and comply with the Board's Rules of Practice, with 20 copies being filed with the Docket Section); (2) proposed statements of issues; (3) proposed stipulations, if any; (4) requests for information; (5) statements of positions of parties; and (6) proposed procedural dates.

Dated at Washington, D.C., March 11, 1965.

[SEAL] Francis W. Brown,
Chief Examiner.

[F.R. Doc. 65-2663; Filed, Mar. 15, 1965; 8:48 a.m.]

[Docket 15661]

NEW YORK AIRWAYS, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 14, 1965, at 10 a.m., e.s.t., in Room 911,

Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner William J. Madden.

In order to facilitate the conduct of the conference, interested parties are instructed to submit to the Examiner and other parties on or before March 24, 1965: (1) Formal motions with respect to the proceeding, including motions to consolidate or expand (such motions should be filed separately and comply with the Board's rules of practice, with 20 copies being filed with the Docket Section); (2) proposed statements of issues; (3) proposed stipulations, if any; (4) requests for information; (5) statements of positions of parties; and (6) proposed procedural dates.

Dated at Washington, D.C., March 11, 1965.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 65-2664; Filed, Mar. 15, 1965; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 65-SW-2]

NEW MEXICO

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal for aeronautical comment and has conducted an aeronautical study (SW-OE-7432) to determine its effect upon the safe and efficient utilization of the navigable airspace.

KAVE-TV, Carlsbad, N. Mex., proposes to construct a television antenna structure at latitude 32°47'39" N., longitude 104°12'27" W., near Artesia, N. Mex. The overall height of the structure would be 4,758.1 feet above mean sea level (1,047.1 feet above ground).

The structure would exceed the standards for determining hazards to air navigation as defined in § 77.23(a)(1) of the Federal Aviation Regulations by 547.1 feet since it would be more than 500 feet above ground at the site of construction.

The aeronautical study disclosed that the structure would be located approximately 11.8 miles east of Artesia, N. Mex., and 13.5 miles west/southwest of the nearest airport. It is not located within the confines of any Federal VOR airway and would have no adverse effect upon IFR operation in the area. It is also situated in a mountainous area and not on a direct line between any airline or private airport terminals.

The study further disclosed that the proposed structure would have no substantial adverse effect upon VFR operations since it would not interfere with flight operations at the closest airport and is not situated in the vicinity of any generally recognized or commonly used VFR route.

Based on the aeronautical study, it is the finding of the Agency that the proposed structure would have no substantial adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 77.37), it is found that the proposed structure would have no substantial adverse effect upon the safe and efficient utilization of navigable airspace and it is hereby determined that the proposed structure would have no substantial adnavigation provided that it is obstruction marked and lighted in accordance with Agency standards.

This determination is effective and will become final 30 days after the date of issuance unless an appeal is filed under § 77.39 (27 F.R. 10352). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination, whichever is later. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 77.41).

Issued in Washington, D.C., on March 3, 1965.

JOSEPH VIVARI,
Acting Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 65-2625; Filed, Mar. 15, 1965; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15824, 15825; FCC 65M-283]

GROSS BROADCASTING CO. AND CALIFORNIA WESTERN UNIVERSITY OF SAN DIEGO

Order Continuing Hearing

In re applications of Jack O. Gross, trading as Gross Broadcasting Company, San Diego, Calif., Docket No. 15824, File No. BPCT-3346; California Western University of San Diego, San Diego, Calif., Docket No. 15825, File No. BPCT-3421; for construction permit for new television broadcast station (Channel 51).

To formalize the agreements and rulings made on the record at a prehearing conference held on March 8, 1965 in the above-entitled matter concerning the future conduct of this proceeding;

It is ordered, This 10th day of March 1965, that:

Preliminary exchange of engineering information is scheduled for April 20, 1965;

Final exchange of engineering and other exhibits on the first five issues is scheduled for May 3, 1965;

Exchange of exhibits on the comparative issue is scheduled for May 26, 1965;

Notification of witnesses is scheduled for June 2, 1965; and

Hearing presently scheduled for April 27, 1965 is rescheduled for June 23, 1965.

Released: March 11, 1965.

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

[F.R. Doc. 65-2669; Filed, Mar. 15, 1965; 8:48 a.m.]

[Docket Nos. 15812, 15813; FCC 65M-279]

NEBRASKA RURAL RADIO ASSN. (KRVN) AND TOWN & FARM CO., INC. (KMMJ)

Order Continuing Prehearing Conference

In re applications of Nebraska Rural Radio Association (KRVN), Lexington, Nebr., Docket No. 15812, File No. BP-15348; Town & Farm Co., Inc. (KMMJ), Grand Island, Nebr., Docket No. 15813, File No. BP-15354; for construction permits.

The Hearing Examiner having under consideration a joint motion filed March 9, 1965, by the above-entitled applicants requesting that the further prehearing conference scheduled to be held on Tuesday, March 9, 1965, be continued to Tuesday, March 30, 1965; and

It appearing that the reason for the requested continuance is the fact that additional time is needed by the several engineers to work out arrangements which will simplify or eliminate certain issues to be resolved in this proceeding; and

It further appearing that all parties join in the requested continuance and good cause having been shown for granting the same;

It is ordered, This the 9th day of March 1965, that the joint motion for continuance is granted, and the further prehearing conference scheduled for March 9, 1965, is continued to Tuesday, March 30, 1965, beginning at 9 a.m. in the offices of the Commission, Washington, D.C.;

It is further ordered, That the evidentiary hearing presently scheduled to begin on Tuesday, March 30, 1965, is continued to a date to be specified at the conclusion of the further prehearing conference which will be held on that date.

Released: March 11, 1965.

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

[F.R. Doc. 65-2670; Filed, Mar. 15, 1965; 8:48 a.m.]

[Docket Nos. 14878, 14879; FCC 65M-278]

PRATTVILLE BROADCASTING CO. AND BILLY WALKER

Order Scheduling Prehearing Conference

In re applications of Ned N. Butler and Claude M. Gray, doing business as The Prattville Broadcasting Co., Prattville, Ala., Docket No. 14878, File No. BP-14571; Billy Walker, Prattville, Ala., Docket No. 14879, File No. BP-14729; for construction permits.

A further prehearing conference in the above-entitled proceeding will be held on Thursday, March 18, 1965, beginning at 9 a.m. in the offices of the Commission, Washington, D.C.

The discussion will include but will not be limited to the matters presented by the Memorandum Opinion and Order of the Review Board dated March 5, 1965, released March 8, 1965, enlarging the issues in this proceeding.

It is so ordered, This the 9th day of March 1965.

Released: March 10, 1965.

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

[F.R. Doc. 65-2671; Filed, Mar. 15, 1965; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-2426]

HILTON INTERNATIONAL CO.

Application for Unlisted Trading Privileges and Opportunity for Hearing

MARCH 10, 1965.

In the matter of application of the Pacific Coast Stock Exchange, for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchanges: Hilton International Co., File 7-2426.

Upon receipt of a request, on or before March 26, 1965 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-2631; Filed, Mar. 15, 1965; 8:46 a.m.]

[File Nos. 7-2424, 7-2425]

INTERNATIONAL MINING CORP. AND TAMPA ELECTRIC CO.

Applications for Unlisted Trading Privileges and Opportunity for Hearing

MARCH 10, 1965.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges: International Mining Corp., File 7-2424; Tampa Electric Co., File 7-2425.

Upon receipt of a request, on or before March 26, 1965 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-2632; Filed, Mar. 15, 1965; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 11, 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. 39625—*Glycols from Doe Run, Ky.* Filed by O. W. South, Jr., Agent (No. A4646), for interested rail carriers. Rates on glycols, viz: butylene, diethylene, dipropylene, ethylene (with or without inhibitor), polyethylene, polypropylene, propylene, and triethylene, in tank carloads, from Doe Run, Ky., to Cincinnati, Ohio, and Fredericksburg, Va.

Grounds for relief—Market competition.

Tariff—Supplement 7 to Southern Freight Association, Agent, tariff I.C.C. S-470.

FSA No. 39626—*Tin or terne plate to Birmingham, Ala.* Filed by Illinois Freight Association, Agent (No. 273), for interested rail carriers. Rates on tin or terne plate, in carloads, from Chicago, South Chicago, Ill., Gary, East Chicago, and Indiana Harbor, Ind., to Birmingham, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 28 to Illinois Freight Association, Agent, tariff I.C.C. 1033.

By the Commission.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-2655; Filed, Mar. 15, 1965; 8:48 a.m.]

[Notice 1138]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 11, 1965.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-67595. By order of March 5, 1965, the Transfer Board approved the transfer of Certificate of Registration No. MC-121008 (Sub-No. 1), issued November 15, 1963, evidencing the right of the holder thereof to engage in interstate or foreign commerce, corresponding in scope to the service authorized by the Certificate of Public Convenience and Necessity No. M-4040, dated January 13, 1938, issued by the Nebraska State Railway Commission, from Frank M. Porter and Frances Porter, a partnership, Chambers, Nebr., to Merlin Grossnicklaus and Gladys Grossnicklaus, a partnership, doing business as Chambers Transfer, Chambers, Nebr.

No. MC-FC-67608. By order of March 8, 1965, the Transfer Board approved the transfer to Abbott Trucking, Inc., Delta, Ohio, of the operating rights of William F. Abbott, doing business as Bill Abbott Grain Co., Delta, Ohio, issued April 10, 1962 and October 4, 1963, in Certificates Nos. MC-114312 and MC-114312 (Sub-No. 6), authorizing the transportation, over irregular routes, of seed, livestock, fence posts, rough lumber, cement, fertilizer, salt, empty containers, canned goods, chemical fertilizer, and dry fertilizer, in containers, and in bulk, in dump vehicles, from, to, and between specified points in Ohio, Michigan, and Indiana, varying with the commodities specified. A. Charles Tell, 44 East Broad Street, Columbus, Ohio, 43215, attorney for applicants.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-2656; Filed, Mar. 15, 1965; 8:48 a.m.]

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PART II

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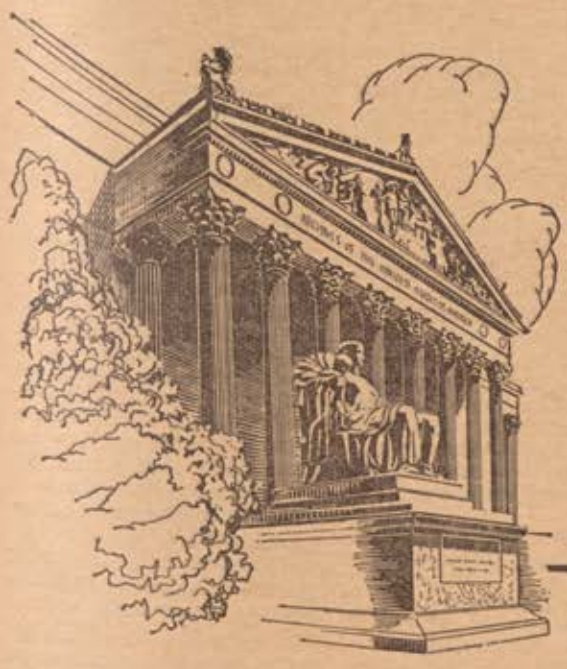
Milk in Mississippi Marketing Area



DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1103, 1105]

[Docket Nos. AO-346, AO-297-A5]

MILK IN MISSISSIPPI MARKETING AREA

Decision 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), a public hearing was held at Jackson, Miss., on October 26–31, 1964, pursuant to notices thereof issued on August 27, 1964 (29 F.R. 12467) and October 7, 1964 (29 F.R. 14029).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator on February 10, 1965 (30 F.R. 2058; F.R. Doc. 65–1589), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision, containing notice of opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (30 F.R. 2058; F.R. Doc. 65–1589) are hereby approved and are set forth in full herein subject to the following modifications:

Index of changes. 1. Under Issue No. 3(b) *Classification and allocation of milk* in the section captioned *Transfers*, delete the seventh paragraph and replace with a new paragraph.

2. Under Issue No. 3.(f) *Administrative provisions*, in section (1) *Terms and definitions*, a new sentence is added at the end of the paragraph.

3. Under Issue No. 3(f) *Administrative provisions*, in section (3) *Records and reports*, in the second paragraph a new sentence is inserted following the second sentence.

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.

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

[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.

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 outweighed 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 regu-

lated 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 dairy 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 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, 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 is 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 unregu-

lated 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) 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 or producer-handler plant) beyond 200 miles from Columbus, Gulfport, Jackson, or Meridian, Miss., 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. The additional points of reference at Columbus and Meridian, besides the two named in the recommended decision, are necessary to assure orderly disposition of milk from these locations which normally moves into Alabama for manufacturing disposition. Such additional points were requested in exceptions by a cooperative association which handles reserve milk in these areas.

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[3] (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-set-

[3] Such total utilization would be subject to certain prior deductions for receipts assigned to the surplus classification as mentioned in prior findings.

tlement 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, 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 Agricul-

tural 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 milk 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 nonfat 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, an 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

[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."

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 determining 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 on 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

[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.

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 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 affords 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 accumu-

lated 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. Minor changes in order language have been made to add greater specificity to the provisions as contained in the recommended decision.

(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 market administrator should also notify handlers of the amount due on milk handled during the month on or before the 10th day after the end of the month, to permit sufficient time for handlers to submit payments due to the producer-settlement fund on the 12th day after the 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 dairy 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).

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision. Exceptions were raised with respect to certain rulings by the presiding officer within pages 22–27, 276–279, 589, and 1013–1014 of the hearing record. Upon further consideration of these motions, said rulings of the presiding officer are hereby affirmed for the reasons stated on the hearing record by the presiding officer.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Mississippi Marketing Area", and "Order Regulating the Handling of Milk in the Mississippi Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

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

The month of December 1964 is hereby determined to be the representative period for the conduct of such referendum.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on March 11, 1965.

GEORGE L. MEHREN,
Assistant Secretary.

Order [46] Regulating the Handling of Milk in the Mississippi Marketing Area

§ 1103.0 Findings and determinations.

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

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

(2) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order are

[46] 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.

such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

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

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) 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, five cents per hundredweight or such amount not to exceed five cents per hundredweight 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).

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Mississippi marketing area shall be in conformity to, and in compliance with, the following terms and conditions:

The provisions of §§ 1103.0 to 1103.110, both inclusive, of the proposed order contained in the recommended decision issued by the Deputy Administrator on February 10, 1965 (30 F.R. 2058; F.R. Doc. 65-1589) shall be and are the terms and conditions of this order and are set forth in full herein subject to the following modifications:

Index of changes. 1. In the index "§ 1103.46 Allocation of skim milk and butterfat classified" has been added under the heading "Classification".

2. Changes are made in §§ 1103.11(c), 1103.18, 1103.22(1), 1103.30(c), 1103.41 (b)(5) (v) and (vi), 1103.44 (a) and (b), 1103.61(a), 1103.82(a), 1103.90(e)(2).

Order Regulating the Handling of Milk in the Mississippi Marketing Area[*]

[*] 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.

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.
Attala.
Bolivar.
Calhoun (Beats 1 and 4 only).
Carroll.
Choctaw.
Claiborne.
Clarke.
Coahoma (Beats 4 and 5 only).
Copiah.
Covington.
Forrest.
Franklin.
Grenada.
Harrison (Keesler Air Force Base only).
Hinds.
Holmes.
Humphreys.
Jasper.
Jefferson.
Jefferson Davis.
Jones.
Lamar.
Lauderdale.
Lawrence.
Leake.
Leflore.
Lincoln.
Lowndes.
Madison.
Marion.
Montgomery.
Neshoba.
Newton.
Noxubee.
Oktibbeha.
Perry.
Quitman (Beats 2, 3, 4, and 5 and the village of Crowder including that portion in Panola County).
Rankin.
Scott.
Sharkey.
Simpson.

Smith.
Sunflower.
Tallahatchie.
Walthall.
Warren.
Washington.
Wayne.
Webster (except Beat 5).
Winston.
Yazoo.
Yalobusha (Beats 1, 4 and 5 only).

§ 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), 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 reconstituted skim milk and concentrated skim milk, other than bulk condensed) 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 desert 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 10th 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 and 1103.98;

(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 an unregulated 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 or 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 of fluid milk products (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 in the form of fluid milk products 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 in bulk 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 nearest of the New State Capitol in Jackson or the County Courthouse in Columbus, Gulfport, or Meridian, 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*)(1) 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.

(2) 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 re-

ported 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 is 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 during which the milk was received 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 monies 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 complete 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 pay-

able. 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.

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