FEDERAL REGISTER

VOLUME 30 • NUMBER 84

Saturday, May 1, 1965 • Washington, D.C.

Pages 6137–6202

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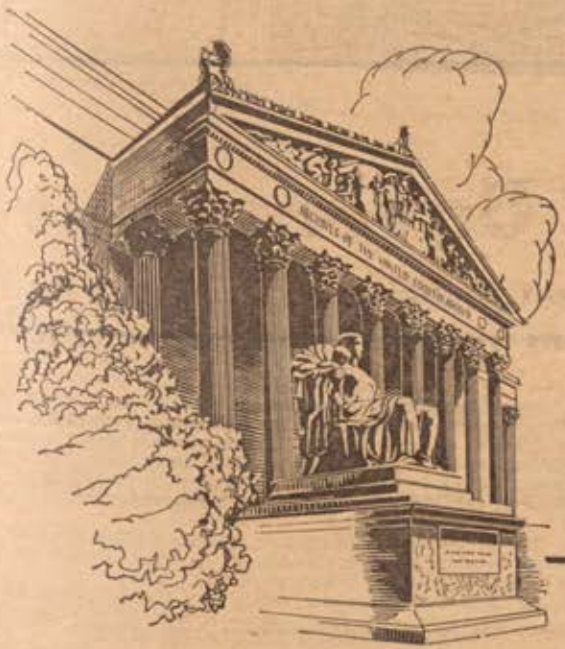

FEDERAL REGISTER

Area Code 202 Phone 963-3261

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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

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CFR CHECKLIST

1965 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes and supplements of the Code of Federal Regulations issued to date during 1965. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C., 20402.

CFR Unit (as of Jan. 1, 1965):	Price
3 1964 Supp.	$1.00
5 (Supp.)	.50
6 (Rev.)	1.00
7 Parts:	
1–50 (Supp.)	1.00
51–52 (Supp.)	1.00
53–209 (Supp.)	1.00
210–399 (Supp.)	.65
900–944 (Rev.)	1.00
945–980 (Rev.)	.65
981–999 (Rev.)	.55
1000–1029 (Rev.)	1.00
1030–1059 (Rev.)	1.00
1060–1089 (Rev.)	1.00
1090–1119 (Rev.)	.70
1120–1199 (Rev.)	1.00
9 (Rev.)	1.25
10–11 (Supp.)	.50
12 (Supp.)	.65
13 (Supp.)	.50
14 Parts:	
200–1199 (Rev.)	1.25
1200–end (Rev.)	.35
16 (Supp.)	1.00
17 (Supp.)	.50
18 (Supp.)	.70
19 (Rev.)	1.75
22 (Rev.)	1.00
23 (Rev.)	.25
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26 Parts:	
1 (§§ 1.01–1.400) (Supp.)	1.00
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27 (Supp.)	.30
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40–399 (Supp.)	.60
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38 (Rev.)	$2.50
39 (Supp.)	1.25
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1 (Rev.)	2.00
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42 (Supp.)	1.00
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Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 55—GRADING AND INSPECTION OF EGG PRODUCTS

Miscellaneous Amendments

Under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), the U.S. Department of Agriculture hereby amends the Regulations Governing the Grading and Inspection of Egg Products (7 CFR Part 55) as set forth below.

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 amendments 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 will have to be analyzed for the presence of Salmonella. When such laboratory analyses show evidence of the presence of Salmonella, the product will have to be pasteurized before being released for consumption.

The amendments require all 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, 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, and require all liquid whites which are to be released into consumptive channels in liquid form to be pasteurized or heat-treated as of this date. When laboratory analysis of frozen whites shows evidence of the presence of Salmonella, such whites will have to be either pasteurized or dried, heat-treated and analyzed for the presence of Salmonella prior to being released for consumption. Effective January 1, 1966, all liquid egg products, except whites, will have to be pasteurized. Effective June 1, 1966, all egg products, except dried whites, will be required to be pasteurized regardless of whether distributed in liquid, frozen or dried form. Dried whites, except those produced from pasteurized liquid, will 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 foodborne 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 will 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 is June 1, 1966. The additional time is needed to perfect, on a commercial basis, the recently developed method of pasteurization.

Under certain conditions, three steps are necessary in testing for the presence of Salmonella. A lot may be determined to be Salmonella negative after completion of step one—growth through differential agars. If step one indicates the product to be Salmonella positive, step two—consisting of growth and testing through triple-sugar-iron agar—will be performed. If step two indicates Salmonella positive product, the processor may, at his option, immediately pasteurize the product or request that the third step—

confirmatory test through biochemicals—be performed. If the third test indicates Salmonella positive product, the product must be pasteurized. If the third test is negative, the product need not be pasteurized.

The fee for conducting Salmonella tests is changed from $5 to $6.40 per test step on a single sample basis. When three or more samples are submitted, the fee per sample shall be $5 for step one, $3 for step two and $5 for step three. This change is necessary because procedures now used are more complex and require more time.

The amendments also require all required labeling information to be placed on the container and prohibit such information from being placed on a detachable cover such as a lid. This will aid in the control of officially labeled product and will 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 is 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 is 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 is 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 are 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 are 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 drawoff.

Due to the differences in cleaning and sanitizing procedures, the requirements concerning the dry cleaning of bags for the bag collectors on drying units are changed to give more flexibility.

The amendments 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 are deleted because the requirements are no longer applicable and certain sections are changed for the sake of clarity.

The amendments are essentially the same as those proposed in the FEDERAL REGISTER of March 16, 1965 (30 F.R. 3450) except for the following: Provision is made for the movement of liquid whites into consumptive channels in liquid form without laboratory analyses when such products have been heat-treated and the sampling of dried whites which have been heat-treated in dried form is changed from "one composite sample per lot of not in excess of 2,000 pounds" to "one composite sample per lot not in excess of 4,000 pounds." These changes from the proposed amendments are due to comments received during rule-making procedure and other technical information now available to the Department.

The amendments are as follows:

1. The last sentence of § 55.35 is hereby deleted and the following sentences are added in lieu thereof:

§ 55.35 Approval of official identification.

* * * 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.

2. Section 55.40 is hereby amended to read:

§ 55.40 Processing turkey, guinea, duck, and goose eggs.

Edible turkey, guinea, duck, and goose eggs may be processed in the official plant if such eggs are processed separately and properly labeled. The resultant egg product may be officially identified with the mark shown in figure 4 of § 55.38.

3. Section 55.66(a) is hereby amended to read:

§ 55.66 Egg products laboratory analyses fees.

(a) For each of the following laboratory analyses the fee referable thereto shall be applicable except as otherwise stated in paragraph (b) of this section:

	Fee
Solids	$2.50
Fat	3.75
Bacteriological plate count	2.50
Bacteriological direct count	2.50
E. Coli (presumptive)	2.50
Coliforms	2.50
Salmonella (per test step)[1]	6.40
Yeast and mold count	2.50
Solubility	1.50
Sugar	5.00
Salt	7.50
Color:	
NEPA	3.75
B-carotene	5.00
Whipping test	2.50
Whipping test plus bleeding	$3.75
Meringue test	2.50
Fat film test	5.00
Oxygen	3.75
Glucose:	
Quantitative	6.25
Qualitative	3.75
Palatability and odor:	
First sample	2.50
Each additional sample	1.25
Organoleptic	2.50

[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 for step one, $3 for step two and $5 for step three.

* * * * *

4. Section 55.70(b) is hereby 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 is hereby 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 either pasteurized or dried, heat-treated and analyzed for the presence of Salmonella. 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 nonpasteurized liquid shall be analyzed for the presence of Salmonella.

(iii) Frozen whites shall be either pasteurized, or heat-treated and ana-

lyzed for the presence of Salmonella, or sampled and analyzed for the presence of Salmonella.

(iv) Liquid whites to be released into consumptive channels in liquid form shall be either pasteurized or heat-treated.

(v) 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 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. 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 4,000 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 and analyzed at the applicant's expense.

§ 55.85 [Amended]

6. Paragraphs (b) and (d) of § 55.85 *Liquid cooling operations* are hereby amended to read:

(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 drawoff to the temperatures specified in paragraphs (c) through (g) of this section.

* * * * *

(d) Egg products to which 10 percent salt has been added, may be accumulated up to four (4) hours at a temperature not exceeding 60° F.: *Provided*, That immediately thereafter the product is packaged and placed in a freezer. Liquid eggs, other than whites, if to be held more than eight (8) hours, shall be reduced to a temperature of 40° F. or less within one and one-half (1½) hours from time of drawoff and held at 40° F. or less until stabilizing or pasteurizing operations are begun or until delivered to the consumer.

7. Section 55.85(e) is hereby amended by changing "40° F." in the first sentence to "45° F."

8. Section 55.85(f) is hereby amended by changing "40° F." in the first sentence to "45° F."

9. Section 55.85(g)(1) is hereby amended to read:

(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 drawoff. Liquid whites held longer than 8 hours shall be cooled immediately after drawoff to 55° F. or less within one and one-half (1½) hours from time of drawoff 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.

10. Section 55.85(l) is hereby deleted.

11. Section 55.88(b) is hereby amended to read:

§ 55.88 **Freezing operations.**

* * * * *

(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 drawoff 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. The temperature of products not solidly frozen shall be taken at the center of the package to determine compliance with this section.

* * * * *

12. Section 55.92(b), the introductory text of (c), and (g) are hereby amended to read:

§ 55.92 **Spray process drying operations.**

* * * * *

(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, cleanup may be delayed until the remainder of the batch has been dried.

* * * * *

(g) Drying units used for other than drying albumen shall be cleaned and sanitized at least once each week and the primary chamber shall be cleaned whenever wet powder is encountered. Bags for bag collectors shall be dry cleaned or laundered as often as needed to maintain them in a sanitary condition. Drying units used for drying albumen shall be operated in a clean and sanitary manner.

* * * * *

13. Section 55.101(b) is hereby amended and a new (c) is added to read:

§ 55.101 **Pasteurization of liquid eggs.**

* * * * *

(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. The flow diversion valve shall be adjusted so that all liquid not meeting the temperature requirements shall be diverted to a receiving tank. The sanitary pipe leading from the flow diversion valve shall be dismantled, cleaned, and sanitized and the flow diversion valve flushed with cold water whenever a 30-minute time interval has elapsed between use and re-use. The pasteurizing equipment shall be dismantled, cleaned, and sanitized at the end of each day's operation. If the eggs are pasteurized within 30 minutes after time of breaking, they need not be chilled to 45° F. prior to pasteurization. Immediately after pasteurization, the liquid eggs shall be cooled as provided in § 55.85 unless they are dried immediately.

(c) *Other acceptable methods.* Other methods of pasteurization may be approved by the national supervisor upon receipt of satisfactory evidence that such methods will result in a Salmonella negative product.

14. Paragraphs (a) (2) and (3) of § 55.102 are hereby amended and (b) (3) is deleted. The affected paragraphs read as follows:

§ 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.

* * * * *

(b) *Gas packing operations.* * * *

(3) [Deleted]

* * * * *

15. A new § 55.103 is hereby 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 28th day of April 1965, to become effective June 1, 1965.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 65-4616; Filed, Apr. 30, 1965; 8:48 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 4]

PART 717—HOLDING OF REFERENDA ON MARKETING QUOTAS

Subpart—Regulations Governing the Holding of Referenda on Marketing Quotas

MISCELLANEOUS AMENDMENTS

1. *Basis and purpose.* The amendments herein are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, particularly as amended by Public Law 89-12, 79 Stat. 66, approved April 16, 1965, which directs the Secretary to hold a special referendum of farmers engaged in the production of flue-cured tobacco of the 1964 crop to determine if they favor or oppose the establishment of marketing quotas on an acreage-poundage basis in lieu of quotas on an acreage basis which are now in effect for the 1965-66, 1966-67, and 1967-68 marketing years. The purpose of these amendments is to (1) amend the authority clause contained in the regulations in this part to include Public Law 89-12, 79 Stat. 66, (2) change the time of voting in the States of Florida, Georgia, North Carolina, South Carolina, and Virginia to give flue-cured tobacco producers in those States an adequate opportunity to vote in the special referendum (in view of the small number of flue-cured tobacco producers in Alabama, no change in voting hours is necessary in that State to insure flue-cured tobacco producers adequate opportunity to vote in the special referendum), and (3) add a new § 717.16 to make it clear that the regulations contained in this part are applicable to all referenda required to be held by the Agricultural Adjustment Act of 1938, as amended.

Notice was given (30 F.R. 5641) that the Secretary was preparing to issue regulations for the conduct of the special referendum required to be held pursuant to Public Law 89-12 to which the amendments herein will be applicable. The data, views, and recommendations pertaining to the regulations in this part which were submitted pursuant to such notice have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

Since the special referendum pursuant to Public Law 89-12 must be held within 30 days after proclamation of the national marketing quota for flue-cured tobacco pursuant thereto, it is hereby found and determined that these amendments shall become effective upon filing with the Director, Office of the FEDERAL REGISTER in order to facilitate preparations for holding the referendum.

2. The authority clause contained in the regulations immediately following the table of contents in this part is amended to read as follows:

AUTHORITY: §§ 717.1 to 717.16 issued under secs. 312, 317, 336, 343, 354, 358, 375, 377, 52 Stat. 46, 55, 56, 61, 66, as amended, 55 Stat. 88, 70 Stat. 206, as amended, 79 Stat. 66; secs. 106, 112, 70 Stat. 191, 195; 7 U.S.C. 1312, 1317, 1336, 1343, 1354, 1358, 1375, 1377, 1824, 1836.

3. Section 717.5 is amended to establish 6 a.m. as the time that polls shall be opened and 8 p.m. as the time that polls shall be closed on the date fixed for holding a referendum in the States of Florida, Georgia, North Carolina, South Carolina, and Virginia.

4. A new § 717.16 is added to read as follows:

§ 717.16 Applicability.

The regulations contained in this part shall be applicable to all referenda on marketing quotas held pursuant to the Agricultural Adjustment Act of 1938, as amended, including referenda under Public Law 89-12.

(Secs. 312, 317, 336, 343, 354, 358, 375, 377, 52 Stat. 46, 55, 56, 61, 66, as amended, 55 Stat. 88, 70 Stat. 206, as amended, 79 Stat. 66; secs. 106, 112, 70 Stat. 191, 195; 7 U.S.C. 1312, 1317, 1336, 1343, 1354, 1358, 1375, 1377, 1824, 1836)

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

Signed at Washington, D.C., on April 28, 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-4598; Filed, Apr. 28, 1965; 1:40 p.m.]

PART 724—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54 AND 55) AND MARYLAND TOBACCO

Subpart—Determinations and Announcements of (1) the Amount of the National Marketing Quota for Flue-Cured Tobacco on an Acreage-Poundage Basis for the Marketing Year Beginning July 1, 1965, (2) the National Average Yield Goal, (3) the National Acreage Allotment, and (4) the Reserve for Making Corrections in Farm Acreage Allotments, Adjusting Inequities, and Establishing Acreage Allotments for New Farms

§ 724.34r Basis and purpose.

(a) Sections 724.34r and 724.34s are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and as further amended by Public Law 89-12 (79 Stat. 66), approved April 16, 1965, hereinafter referred to as the Act, to determine and announce for flue-cured tobacco for the marketing year beginning July 1, 1965, under the provisions of Public Law 89-12, (1) the amount of the national marketing quota on an acreage-poundage basis, (2) the national average yield goal, (3) the national acreage allotment, and (4) the reserve for making corrections in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms. The determinations by the Secretary contained in subsection 724.34s have been made on the basis of the latest available statistics of the Federal Government. Due consideration has been given data, views, and recommendations received from flue-cured tobacco producers and others pursuant to the notice (30 F.R. 5641) given in accordance with the Administrative Procedure Act (5 U.S.C. 1003). The Act requires the holding of a special referendum of flue-cured tobacco farmers within 30 days after the announcement of the national marketing quota on an acreage-poundage basis, the national acreage allotment, and the national average yield goal, to determine whether such farmers favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in section 317 of the Act for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. Since flue-cured tobacco farmers must, under section 317 of the Act, be notified, insofar as practicable, of the 1965 crop year marketing quotas for their farms prior to the special referendum, it is hereby found that compliance with the 30-day effective date provision of the Administrative Procedure Act is impracticable and contrary to the public interest. Therefore, the determinations and announcements contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register.

(b) Under the formula in the Act the basis for determining the reserve supply level depends upon the marketing year in which it is determined. 7 U.S.C. 1301 (b)-(10)(B), (11)(B), (12), (14)(B). The present marketing year began on July 1, 1964 and ends on June 30, 1965, 7 U.S.C. 1301(b)(7). On November 27, 1964, the reserve supply level for flue-cured tobacco was determined to be 3,231.2 million pounds (29 F.R. 16077) and the reserve supply level so determined is used for the purposes of the determinations in § 724.34s.

(c) The carry-over of flue-cured tobacco on July 1, 1965, is estimated at 2,530 million pounds and the 1965 crop, based on March 1, 1965, planting intentions of 506,400 acres and an average yield with an allowance for trend, is estimated at 1,152 million pounds. *Tobacco Situation March 1965.* The total supply of flue-cured tobacco for the 1965-66 marketing year is, therefore, presently estimated at 3,682 million pounds or 450.8 million pounds above the reserve supply level.

(d) It is estimated that 800 million pounds of flue-cured tobacco will be utilized in the United States during the 1965–66 marketing year, and 475 million pounds will be exported in that marketing year. This compares with the present estimates for the 1964–65 marketing year, for which actual data for the first 8 months are available, of 785 million pounds for domestic utilization and 455 million pounds for export. The estimates for the 1965–66 marketing year take into account an expected increase in cigarette consumption and an expected increase in exports because of improved quality in the leaf marketed under the acreage-poundage program.

(e) It is determined that it is desirable to effect an orderly reduction of supplies to the reserve supply level, and, therefore, a downward adjustment in a national marketing quota of 1,275 million pounds should be made. Accordingly, the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1965, is determined to be 1,126 million pounds. This is less than the maximum reduction of 15 per centum permitted by the Act, but no further reduction is deemed desirable because experience gained from actual operations under the acreage-poundage program is lacking, and a greater reduction would not effect an orderly reduction to the reserve supply level.

(f) It is determined that the national marketing quota of 1,126 million pounds in view of the anticipated carryover will insure an adequate supply of flue-cured tobacco for the 1965–66 marketing year.

(g) The "national average yield goal" has been determined to be 1,854 pounds per acre. It has been determined that this yield will improve or insure the usability of flue-cured tobacco and increase the net return per pound to the growers. In making this determination consideration was given to research data of the Agricultural Research Service of the Department and one of the land-grant colleges in flue-cured tobacco area. From the best information available this is the only relevant research data bearing directly on the statutory factors. The research conducted by the Agricultural Research Service covered the years 1959 through 1964 and was made in cooperation with State agricultural experiment station scientists. The flue-cured variety used in the experiments was Hicks, and the experiments were conducted on 58 test plots distributed from Virginia to Florida. In these tests the best cultural and curing practices were used in order to maximize smoking quality. The average yield per acre by years ranged from 1,730 to 2,073 with a 6-year average of 1,924 pounds for 58 tests. The experiment by the land-grant college was conducted at three locations for the past 2 years and at varying levels of cultural practices. The lower level averaged 1,976 pounds per acre compared with 2,673 pounds for the higher levels. However, the tobacco produced at the low yield sold for 4 cents more per pound than the tobacco produced at the higher yields, and the cost of production was only 2 cents per pound higher on the lower yields. As a result of this research it was recommended that a national average yield goal of between 1,800 and 1,900 pounds would allow the production of good quality tobacco at relatively low production costs per pound with present technologies.

(h) The national acreage allotment is 607,335.49 acres, determined in accordance with the provisions of the Act by dividing the national marketing quota of 1,126 million pounds by the national average yield goal of 1,854 pounds.

(i) In accordance with the provisions of the Act a reserve from the national acreage allotment is established in the amount of 785.68 acres for making corrections in farm acreage allotments, adjusting inequities and establishing allotments for new farms. New farms in 1965 under the acreage program received a total of 98.33 acres of allotment, and 116.03 acres of the reserve will be used for these new farms under the acreage-poundage program. This amount will permit an upward adjustment in the same proportion that allotments for old farms are to be adjusted upward under the acreage-poundage program. It is estimated that the remainder of the reserve acreage will be adequate to make corrections in farm acreage allotments and to adjust inequities.

(j) Consideration in the light of the latest available statistics of the Federal Government has been given as to whether any of the types of flue-cured tobacco should be treated as a kind of tobacco pursuant to the proviso in section 301(b)(15) of the Act. Many recommendations were received to the effect that no action should be taken under this provision of the statute. On the other hand in the case of Brown, et al. v. Freeman, now pending in the courts, it is alleged that type 14 tobacco should be constituted as a separate kind of tobacco under this proviso. It is contended in that case that the fact that less type 14 tobacco in recent years has been placed under price support loans through the Stabilization Corporation furnishes a factual basis to constitute this type of tobacco as a separate kind. However, tobacco placed with the Stabilization Corporation is not removed from the channels of trade, the greater part of the tobacco so placed in prior years has been purchased by the tobacco trade, and stocks held by the Stabilization Corporation include substantial quantities of all types of flue-cured tobacco. Many of the recommendations received, including recommendations from farmers who are also tobacco graders, were to the effect that the various types of flue-cured tobacco are not distinguishable on visual inspection. One farmer who is also a grader stated that it was possible to distinguish between the types of tobacco, generally speaking, but that it was more difficult to distinguish between types in closely related areas such as those producing type 14 and 13, 13 and 12, and 12 and 11b. This farmer-grader stated, however, that it is not always possible to make the distinction even in widely separated types, and he also stated that there were as many variations in quality and desirability within a type as between types and that highly desirable tobacco of each type and undesirable tobacco of each type was produced.

He recommended that no action be taken to separate the types. One of the largest manufacturers of cigarettes in the United States stated that it could use satisfactorily in its blends, tobaccos from all the various types of flue-cured tobacco and that each type was equally satisfactory for its needs. This company further stated that an investigation of their buying practices over the years reveals that their purchases from each of the various types had varied from year to year as quality and availability might dictate, but it had been its practice insofar as usability of the crop would allow, to spread its purchases over the entire flue-cured area and they did not believe that any one type had superior qualities as compared with any other flue-cured type. Another company which is a large buyer of flue-cured tobacco for export stated that type 14 tobacco under present conditions and practices is much less desirable than tobaccos from some of the other belts. On the basis of present available information, it is concluded that flue-cured tobacco produced in the United States regardless of its type is a substantially homogeneous commodity. Its principal usage both in this country and abroad is in the manufacture of cigarettes. The individual types have a high degree of intercangeability in their actual use and each of these types is readily substituted for the others. A comparison of nonfarm stocks in the United States by quarters from 1957 demonstrates that the relationships among stocks of the various types of flue-cured tobacco have remained relatively constant during this period. A table showing this relationship is attached as Exhibit A. A price comparison among flue-cured types since 1951 shows a close proximity of prices to each other. This is shown in Table 12 of the Tobacco Situation for December 1964. It is, therefore, determined that there is a common demand for flue-cured tobacco and no finding is made that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Accordingly, the determinations in section 724.34s are issued on the basis that flue-cured tobacco comprising types 11, 12, 13, and 14 is a kind of tobacco for the purposes of the Act for the marketing years 1965–66, 1966–67, and 1967–68. As indicated above the case of Brown, et al. v. Freeman, is now pending in the courts. The time for applying for a writ of certiorari in this case has not expired and no determination has yet been made as to whether such a writ will be applied for. In the event that it is decided that a petition for a writ of certiorari will not be filed, any additional consideration, action or determination required by the decision and judgment of the court of appeals will be undertaken expeditiously.

(k) Many recommendations were received against taking any action under section 313(i) of the Act. One company made a general recommendation that a

small move in this direction might well be taken. No action may be taken under this section of the Act unless a substantial difference exists in the usage or market outlets for any one or more of the types comprising the kind of tobacco. On the basis of the facts heretofore recited in connection with the consideration of section 301(b)(15), it is determined that there is no substantial difference now existing in the usage or marketing outlets for any one or more of the types of flue-cured tobacco and, therefore, no action is taken under this section of the statute. In addition, paragraph (i) of section 313 of the Act applies only to marketing quotas and acreage allotments established pursuant to section 313. It is, therefore, concluded that, notwithstanding section 4 of Public Law 89–12, the better view is that section 313(i) of the Act should not be applied to acreage allotments and marketing quotas determined under Public Law 89–12.

(l) Recommendations for and against were received with respect to taking action under the proviso in paragraph (g)(1) of Public Law 89–12. It is concluded that no determination should be made with respect to this proviso at the present time since no marketing experience under the acreage-poundage program is now available.

§ 724.34s Determinations and announcements.

(a) *National marketing quota for flue-cured tobacco on an acreage-poundage basis for the marketing year beginning July 1, 1965.* A national marketing quota for flue-cured tobacco on an acreage-poundage basis for the marketing year beginning July 1, 1965, is hereby determined and announced in the amount of 1,126 million pounds. This quota is based upon an estimated utilization in the United States in such marketing year of 800 million pounds and exports in such marketing year of 475 million pounds and a downward adjustment which is determined to be desirable for the purpose of effecting an orderly reduction of supplies to the reserve supply level.

(b) *National average yield goal.* The national average yield goal for flue-cured tobacco for the marketing year beginning July 1, 1965, is determined and announced at 1,854 pounds. This goal is based on the yield per acre which on a national average basis it is determined will improve or insure the usability of flue-cured tobacco and increase the net return per pound to growers.

(c) *National acreage allotment.* The national acreage allotment for flue-cured tobacco on an acreage-poundage basis for the marketing year beginning July 1, 1965, is determined and announced to be 607,335.49 acres. This allotment was determined by dividing the national marketing quota of 1,126 million pounds by the national average yield goal of 1,854 pounds.

(d) *Reserve acreage for making corrections in farm acreage allotments, adjusting inequities, and establishment of acreage allotments for new farms.* A national reserve from the national acreage allotment in the amount of 785.68 acres is hereby determined and announced. This reserve is for making corrections in farm acreage allotments, adjusting inequities, and establishing allotments for new farms.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66; 7 U.S.C. 1301, 1313, 1317, 1375, Public Law 89–12, app. Apr. 16, 1965)

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

Signed at Washington, D.C., on April 28, 1965.

ORVILLE L. FREEMAN,
Secretary.

EXHIBIT A

TOTAL STOCKS OF FLUE-CURED TOBACCO, TYPES 11–14 AND PERCENTAGE DISTRIBUTION ON QUARTERLY DATES, 1957–65

Apr. 20, 1965

Date and year	Quantity—unstemmed weight					Percentage distribution				
	Type 11	Type 12	Type 13	Type 14	Total	Type 11	Type 12	Type 13	Type 14	Total
	Mil. lb.	*Mil. lb.*	*Mil. lb.*	*Mil. lb.*	*Mil. lb.*	*Pct.*	*Pct.*	*Pct.*	*Pct.*	*Pct.*
Jan. 1:										
1957	901	932	559	312	2,704	33	34	21	12	100
1958	843	883	517	263	2,506	34	35	21	10	100
1959	808	853	495	237	2,393	34	36	21	10	100
1960	767	815	499	237	2,318	33	35	22	10	100
1961	769	802	512	246	2,329	33	34	22	11	100
1962	777	767	543	250	2,337	33	33	23	11	100
1963	834	811	582	284	2,511	33	33	23	11	100
1964	890	816	585	279	2,570	35	32	22	11	100
1965	995	863	596	250	2,704	37	32	22	9	100
Apr. 1:										
1957	816	862	509	286	2,473	33	35	20	12	100
1958	770	804	476	241	2,291	34	35	20	11	100
1959	737	784	460	210	2,191	34	36	20	10	100
1960	691	741	449	211	2,092	33	35	22	10	100
1961	699	724	465	219	2,107	33	35	22	10	100
1962	693	713	483	220	2,109	33	34	23	10	100
1963	760	742	527	254	2,283	33	33	23	11	100
1964	825	748	536	254	2,363	35	31	23	11	100
July 1:										
1957	744	787	449	249	2,229	34	35	20	11	100
1958	692	728	432	209	2,061	34	35	21	10	100
1959	671	704	415	182	1,972	34	36	21	9	100
1960	645	655	398	179	1,877	34	35	21	10	100
1961	614	642	423	185	1,864	33	34	23	10	100
1962	598	644	423	188	1,853	32	35	23	10	100
1963	677	665	465	223	2,030	33	33	23	11	100
1964	756	670	488	213	2,127	36	31	23	10	100
Oct. 1:										
1957	753	896	549	291	2,489	30	36	22	12	100
1958	701	826	533	265	2,325	30	36	23	11	100
1959	702	809	505	265	2,281	31	35	22	12	100
1960	655	761	507	277	2,200	30	34	23	13	100
1961	658	789	575	280	2,302	29	34	25	12	100
1962	625	765	604	311	2,305	27	33	27	13	100
1963	658	755	612	318	2,343	28	32	26	14	100
1964	748	758	635	292	2,433	31	31	26	12	100

Economic Research Service: Based on data from quarterly stocks reports of Agricultural Marketing Service.

[F.R. Doc. 65–4594; Filed, Apr. 28, 1965; 1:40 p.m.]

[Amdt. 14]

PART 724—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54 AND 55), AND MARYLAND TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1963–64 and Subsequent Marketing Years

ESTABLISHMENT OF 1965 ACREAGE-POUNDAGE QUOTAS FOR FLUE-CURED TOBACCO

Basis and purpose. This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) for the purpose of establishing 1965 farm acreage allotments and farm marketing quotas under the acreage-poundage program for flue-cured tobacco authorized by Public Law 89–12, approved April 16, 1965.

Public notice of intention to issue this amendment was given (30 F.R. 5641) in accordance with the Administrative Procedure Act (5 U.S.C. 1001–1011).

Paragraph (a) of the amendment makes the amendment applicable only to the determination of 1965 farm acreage allotments and farm marketing quotas for flue-cured tobacco on an acreage-poundage basis. The amendment adds a new section to the tobacco allotment and marketing quota regulations for 1963–64 and subsequent marketing years. Paragraph (a) makes it clear that certain sections of these regulations shall apply insofar as applicable and particularly that the farm acreage allotments and farm marketing quotas under the acreage-poundage program will be determined initially by the county committee subject to review and approval by a representative of the State committee.

The procedure for determining farm acreage allotments under the acreage-poundage program is set out in paragraph (b). Public Law 89–12 provides that the farm acreage allotment for

an old tobacco farm under the acreage-poundage program for flue-cured tobacco for 1965 shall be determined by adjusting the 1965 farm allotment determined on an acreage-poundage basis so that the total of all allotments is equal to the national allotment less the reserve. Provision is also made for adjustments downward or upward to reflect adjustments in the farm marketing quota for overmarketing or undermarketing and for adjustments for violations. Since this is the first year of the program there will be no adjustments for overmarketing or undermarketing hence provision is made only for reductions for violations. The national acreage allotment less the reserve is 606,549.81 acres. The total amount of the 1965 acreage allotments for flue-cured tobacco for old farms on an acreage basis was 514,025.26 acres. The factor of 1.18 was determined by dividing the 606,549.81 acres by the 514,025.26 acres. by applying this factor to the 1965 farm acreage allotment on an acreage basis, the provisions of the statute for uniform adjustment will be achieved. Acreage allotments for flue-cured tobacco for 1965 on an acreage basic for new farms have been determined on the basis of land, labor and equipment available for the production of tobacco, crop-rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco producing experience of the farm operator. The total amount of new farm allotments for 1965 which have previously been determined is 98.33 acres. The reserve for new farms under the acreage-poundage program has been determined to be 116.03 acres. A factor of 1.18 is obtained by dividing the 116.03 acres by 98.33 acres. The amendment provides for the application of this factor to the new farm allotment on an acreage basis to obtain the new farm allotment on an acreage-poundage basis. Since the factors for determining new farm allotments are the same under both programs this procedure conforms with the requirements of Public Law 89–12.

Paragraph (c) sets forth the procedure for determining preliminary farm yields in detail and follows the requirements of Public Law 89–12.

Paragraph (d) sets forth the procedure for determining farm yields. Public Law 89–12 provides that the farm yields shall be determined by multiplying the preliminary farm yield by the national yield factor. The procedure for determining the national yield factor which is followed is set out in paragraph (d). The weighted national average yield was computed by multiplying the preliminary farm yield for each old farm by the 1965 farm acreage allotment established on an acreage-poundage basis and dividing the total of these yields which amounted to 1,204,493,853 pounds by the national acreage allotment. Paragraph (d) also provides for the appraisement of farm yields for new farms by taking into consideration the factors set forth in paragraph (d) which give effect to the statutory factors in Public Law 89–12.

Paragraphs (e) and (f) are self-explanatory and paragraph (g) in accordance with the provisions of Public Law 89–12 provides that the lease and transfer of flue-cured tobacco allotments for 1965 which have already been made may be approved and ratified but that the amount of the allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased.

As the special referendum is to be held on May 4, 1965, and as a notice of farm acreage allotment and marketing quota must, by statute (Public Law 89–12), be mailed to each operator of a farm having a flue-cured tobacco acreage allotment prior to the date of the referendum, insofar as practicable, it is hereby found that compliance with the 30-day effective date provision of the Administrative Procedure Act is impracticable and contrary to the public interest. Therefore, this amendment shall become effective upon the date of filing with the Director, Office of the Federal Register.

§ 724.68 Determining 1965 acreage-poundage quota for flue-cured tobacco.

(a) *General.* A 1965 farm acreage allotment and farm marketing quota on an acreage-poundage basis shall be established under the provisions of this section for each flue-cured tobacco farm, including new farms, for which acreage allotments were approved on an acreage basis for 1965. Sections 724.51 through 724.53 and §§ 724.65 through 724.67, insofar as applicable, shall apply to the determinations under this section.

(b) *Determining farm acreage allotments.* A 1965 farm acreage allotment on an acreage-poundage basis shall be determined for each farm for which a 1965 acreage allotment for flue-cured tobacco has been determined on an acreage basis pursuant to the provisions in this part, including new farms for which acreage allotments were approved on an acreage basis for 1965. The 1965 farm acreage allotment on an acreage-poundage basis shall be computed by multiplying the 1965 farm acreage allotment on an acreage basis by a national acreage factor of 1.18. The farm acreage allotment to which the national acreage factor shall be applied is the 1965 farm acreage allotment after lease and transfer of tobacco acreage under § 724.67 of this part, but prior to reduction for violation of a marketing quota provision under this part, except that such allotment shall again be reduced for such violation after application of the factor. A factor of 1.18 shall also be applied to each 1965 new farm allotment established on an acreage basis under § 724.62.

(c) *Determining preliminary farm yields.* A preliminary farm yield shall be determined for each farm for which a 1965 farm acreage allotment on an acreage-poundage basis is established under this section, except for new farms approved on an acreage basis for 1965, as follows:

(1) Determine an average yield per acre for each farm for each year of the period 1959 through 1963 by dividing the total pounds of flue-cured tobacco produced on such farm by the total acreage of flue-cured tobacco harvested from such farm for each respective year.

(2) Determine a simple average of the yields per acre for each farm for the 3 highest years of the 5 consecutive crop years beginning with the 1959 crop year, or, if flue-cured tobacco was not produced on the farm for at least 3 years of the 5-year period, compute the average of the yields for the years in which tobacco was produced. Then apply the provisions of subparagraph (4) of this paragraph to the simple average of such yields.

(3) If no flue-cured tobacco was produced on the farm in the 5-year period (1959–63) but the farm is eligible for an allotment because it has tobacco history acreage in the 5-year period (1960–64), a preliminary farm yield for the farm shall be determined by the county committee taking into consideration (i) the soil and other physical factors affecting the production of tobacco on the farm, and (ii) the preliminary farm yields determined for other farms in the community on which the soil and other physical factors affecting the production of tobacco are similar. If no flue-cured tobacco was produced in the community in the 5-year period 1959–63, the preliminary farm yield shall be appraised on the basis of the soil and other physical factors affecting the production of tobacco on the farm and the preliminary farm yields for similar farms outside the community.

(4) If the simple average of the yields for the farm as determined under subparagraph (2) of this paragraph is: (i) as much as 80 percent but not more than 120 percent of the community average yield, the preliminary farm yield shall be the simple average of such yields; (ii) more than 120 percent of the community average yield, the preliminary farm yield shall be the sum of 50 percent of the average of the 3 highest years and 50 percent of the national average yield goal (1,854 pounds) but not less than 120 percent of the community average yield or more than the average of the 3 highest years for the farm; or (iii) less than 80 percent of the community average yield, the preliminary farm yield shall be 80 percent of the community average yield.

(5) In applying the provisions of this paragraph, a farm that is physically located in a community shall be administratively located in such community. If the farm is physically located in more than one community, the farm shall be considered as located in the community to which it was assigned when the 1965 farm acreage allotment was established on an acreage basis, or, if the farm was not assigned to a community when the 1965 farm acreage allotment was established on an acreage basis, the county committee shall locate the farm in the community in which the principal dwelling is located or where the major portion of the cropland is located, if there is no dwelling.

(d) *Farm yields.* The farm yield shall be determined by multiplying the preliminary farm yield by the national yield factor of .9349. The national yield factor was attained by dividing the national

average yield goal of 1,854 pounds by the weighted national average yield of 1,983 pounds. Farm yields for new farms for 1965 shall be that yield, not to exceed the community average yield, determined for the farm taking into consideration the (1) soil and other physical factors affecting the production of tobacco on the farm, and (2) farm yields determined for other farms on which the soil and other physical factors affecting the production of tobacco are similar.

(e) *Farm marketing quota.* The farm marketing quota shall be determined by multiplying the 1965 farm acreage allotment determined pursuant to paragraph (b) of this section by the farm yield.

(f) *Notice of farm acreage allotment and marketing quota.* An official notice of the farm acreage allotment and farm marketing quota on an acreage-poundage basis shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment and marketing quota is established. Insofar as practicable, all notices of farm acreage allotments and farm marketing quotas shall be mailed in time to be received prior to the date of the special referendum to be held on May 4, 1965.

(g) *Lease and transfer.* Lease and transfer of flue-cured tobacco acreage for 1965 under § 724.67 of this part may be approved or ratified by the county committee for the purposes of this section, but the amount of the allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section.

(Secs. 316, 317, 375, 52 Stat. 66, as amended, 75 Stat. 469, as amended, 79 Stat. 66; 7 U.S.C. 1314b, 1317, 1375, Public Law 89-12, approved Apr. 16, 1965)

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

Signed at Washington, D.C., on April 28, 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-4596; Filed, Apr. 28, 1965; 1:40 p.m.]

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

[Valencia Orange Reg. 118]

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

Limitation of Handling

§ 908.418 Valencia Orange Regulation 118.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 29, 1965.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., May 2, 1965, and ending at 12:01 a.m., P.s.t., May 9, 1965, are hereby fixed as follows:

(i) District 1: 350,000 cartons;

(ii) District 2: 88,776 cartons;

(iii) District 3: 125,000 cartons.

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

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

Dated: April 30, 1965.

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

[F.R. Doc. 65-4684; Filed, Apr. 30, 1965; 11:25 a.m.]

[Lemon Reg. 158, 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)(ii) of § 910.458 (Lemon Regulation 158, 30 F.R. 5789) are hereby amended to read as follows:

§ 910.458 Lemon Regulation 158.

* * * * *

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

(ii) District 2: 325,500 cartons.

* * * * *

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

Dated: April 28, 1965.

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

[F.R. Doc. 65-4617; Filed, Apr. 30, 1965; 8:48 a.m.]

[Lemon Reg. 159]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.459 Lemon Regulation 159.

(a) *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 recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 27, 1965.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., May 2, 1965, and ending at 12:01 a.m., P.s.t., May 9, 1965, are hereby fixed as follows:

(i) District 1: 7,440 cartons;

(ii) District 2: 279,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: April 28, 1965.

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

[F.R. Doc. 65-4618; Filed, Apr. 30, 1965; 8:48 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 56402]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Antiques; Ports of Entry

The ports designated by the Secretary of the Treasury pursuant to headnote 2, part 11B, schedule 7, Tariff Schedules of the United States, for the entry of articles claimed to be duty free under item 766.20 or 766.25 are listed in § 10.53(e) of the Customs Regulations. Developments in the trade of these articles make it necessary to designate additional ports for such entries.

Accordingly, to designate all ports in specified districts, including the districts in which the ports presently designated are situated, § 10.53(e) is amended to read:

§ 10.53 Antiques.

* * * * *

(e) Furniture* claimed to be free of duty under item 766.20 or 766.25, Tariff Schedules of the United States, except picture frames classifiable thereunder, may be entered for consumption only at ports of entry within the following districts:

District No.:	*Name of District*
1	Maine and New Hampshire.
4	Massachusetts.
5	Rhode Island.
6	Connecticut.
10	New York.
11	Philadelphia.
13	Maryland.
14	Virginia.
15	North Carolina.
16	South Carolina.
17	Georgia.
18	Florida.
20	New Orleans.
22	Galveston.
25	San Diego.
27	Los Angeles.
28	San Francisco.
29	Oregon.
30	Washington.
32	Hawaii.
38	Michigan.
39	Chicago.
41	Ohio.
42	Kentucky.

However, such furniture may be entered at any port for transportation in bond to one of the ports of entry in any of the above districts, or to any authorized place of deposit outside one of those ports, for examination and release, as contemplated by section 484(f), Tariff Act of 1930, as amended, if the port of entry designated in the transportation entry is one at which furniture may be entered for consumption and there is compliance with the procedure prescribed by § 18.11(c) of this chapter.

* * * * *

The citation of authority for § 10.53 is amended to read:

(Sec. 481, 46 Stat. 719, Sch. 7, pt. 11B, hdnote. 2, 77A Stat. 390; 19 U.S.C. 1481, 1202 (Sch. 7, pt. 11B, hdnote. 2))

The purpose of this amendment is to make available additional ports at which artistic antiquities may be entered free of duty pursuant to headnote 2, part 11B, schedule 7, Tariff Schedules of the United States. Determination of which ports should be make available for such entry depends entirely on facts within the knowledge of the Bureau of Customs. It is to the benefit of the public that the amendment be made effective on the earliest practical date. Accordingly, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003) it is found that notice and public procedure are unnecessary and good cause is found for making this amendment effective upon publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Acting Commissioner of Customs.

Approved: April 22, 1965.

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 65-4604; Filed, Apr. 30, 1965; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER D—MANAGEMENT OF WILDLIFE RESEARCH AREAS

PART 60—PATUXENT WILDLIFE RESEARCH CENTER

Patuxent Wildlife Research Center, Md.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 60.11 Special regulations; hunting and sport fishing.

Sport fishing will be permitted on the Patuxent Wildlife Research Center, Md. The open area is confined to Snowden Pond, comprising 7 acres as delineated on a map available at the Center headquarters and from the Office of the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C., 20240. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Black bass and sunfish.

(b) Open season: June 1, 1965, through September 30, 1965; sunrise to sunset only.

(c) Daily creel limits: Black bass, 5; sunfish, no limit.

(d) Methods of fishing:

(1) Hook and line tackle and baits permitted by Maryland law, except that no live minnows or other fish may be used for bait.

(2) The use of boats, canoes, and similar floating devices, without motors, is permitted. Launching of boats is permitted only in the area designated by signs.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on the Patuxent Wildlife Research Center which are set forth in Title 50, Code of Federal Regulations, Part 60.

(2) A Federal permit is required to fish. A total of 300 permits will be issued in order of receipt of requests. Application should be made to the Director, Patuxent Wildlife Research Center, Laurel, Md., 20810. Each permit shall authorize the holder and members of his immediate family to fish.

(3) Each permittee is required to complete a fishing report form for each day fished, which will show the name of permittee, date of fishing, hours fished, type of bait used, and fish taken by species and size.

(4) The provisions of this special regulation are effective to October 1, 1965.

A. Y. TUNISON,
Acting Director.

APRIL 27, 1965.

[F.R. Doc. 65-4586; Filed, Apr. 30, 1965; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 5067; Amdt. 39-62]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Models 707 and 720 Series Aircraft

Amendment 731 (29 F.R. 6614), AD 64-11-1, as amended by Amendments 799 (29 F.R. 12029), and 39-43 (30 F.R. 2855), requires repetitive inspection of the front and rear upper and lower wing spar chords on certain Boeing Models 707 and 720 Series aircraft and repair if cracks are found. Investigation, based upon a request for an extension of the repetitive inspection interval, has shown that an increase from 1100 hours' time in service to 1200 hours' time in service may be granted to operators of Boeing Models 707 and 720 Series aircraft without adversely affecting safety. Therefore, Amendment 731 as amended by Amendments 799 and 39-43 is further amended to provide a 100 hour increase in the repetitive inspection interval.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made 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 amended as follows:

Amendment 731 (29 F.R. 6614), AD 64-11-1, as amended by Amendments 799 (29 F.R. 12029) and 39-43 (30 F.R. 2855), Boeing Models 707 and 720 Series aircraft is further amended by changing the repetitive inspection interval specified in paragraph (a)(2) from 1100 hours' time in service to 1200 hours' time in service.

This amendment becomes effective May 1, 1965.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on April 27, 1965.

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

[F.R. Doc. 65-4577; Filed, Apr. 30, 1965; 8:45 a.m.]

[Airspace Docket No. 63-EA-115]

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

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration of Jet Route and Federal Airway

On February 10, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER stating that the Federal Aviation Agency was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would designate a jet route from Norfolk, Va., to the intersection of the Providence, R.I., VOR 045° and the Boston, Mass., VORTAC 067° True radials, and that would alter VOR Federal airway No. 139 in accordance with the jet route designation.

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, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0001 e.s.t., June 24, 1965, as hereinafter set forth.

1. Add the following to § 75.100 (19 F.R. 17776):

Jet Route No. 121 (Norfolk, Va., to Providence, R.I.), from Norfolk, Va., via INT of Norfolk 023° and Sea Isle, N.J., 212° radials; Sea Isle; INT of Sea Isle 049° and Hampton, N.Y., 223° radials; Hampton; Providence, R.I.; to INT of Providence 045° and Boston, Mass., 067° radials.

2. Alter § 71.123 (29 F.R. 17526, 15199) as follows:

In V-139 "The portion outside the United States has no upper limit." is deleted.

3. Add the following to § 71.161 (29 F.R. 17552):

Jet Route No. 121: Norfolk, Va., to Hampton, N.Y.; Providence, R.I., to INT of Providence 045° and Boston, Mass., 067° radials.

(Sec. 307(a) and 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510), and Executive Order 10854 (24 F.R. 9565)

Issued in Washington, D.C., on April 26, 1965.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-4578; Filed, Apr. 30, 1965; 8:45 a.m.]

[Airspace Docket No. 64-WA-71]

PART 75—ESTABLISHMENT OF JET ROUTES

Designation of Jet Routes

On December 8, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 16836), stating that the Federal Aviation Agency was considering amendments to Part 75 of the Federal Aviation Regulations that would establish jet routes from within the northeastern portion of the United States to the United States-Canadian border.

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 75 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 24, 1965, as hereinafter set forth.

In § 75.100 (29 F.R. 17776), the following are added:

a. Jet Route No. 586 (United States/Canadian border via Massena, N.Y., to United States/Canadian border). (Joins Canadian high level airway No. 586).

From Stirling, Ont., via Massena, N.Y., to St. Johns, Quebec, excluding the airspace outside the United States.

b. Jet Route No. 506 (Millinocket, Maine, to United States/Canadian border). (Joins Canadian high level airway No. 506).

From Millinocket, Maine, via the intersection of Millinocket 114° and St. John, N.B., 267° radials; to the intersection of the St. John 267° radial with the United States/Canadian border.

c. Jet Route No. 509 (Brandon, N.Y., to United States/Canadian border). (Joins Canadian high level airway No. 509).

From the intersection of the Massena, N.Y., 163° and the St. Eustache, Quebec, 200° radials to the intersection of the St. Eustache 200° radial with the United States/Canadian border.

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

Issued in Washington, D.C., on April 26, 1965.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-4579; Filed, Apr. 30, 1965; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 6573; Amdt. 424]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
AMA VOR	AM LOM	Direct	5000	T-dn	300-1	300-1	200-½
ARO VOR	AM LOM	Direct	5000	C-dn	600-1	600-1	600-1½
Claude Int	AM LOM	Direct	5000	S-dn-3	600-1	600-1	600-1
Palo Duro Int	AM LOM	Direct	4900	A-dn	800-2	800-2	800-2
Tower Int	AM LOM	Direct	5300				
Sam Int	AM LOM	Direct	5300				
West Side Int	AM LOM	Direct	5000				

Radar transitions and vectoring using Amarillo radar authorized in accordance with approved radar patterns.
Procedure turn S side of crs, 215° Outbnd, 035° Inbnd, 5000' within 10 miles.
Minimum altitude over facility on final approach crs, 5000'.
Crs and distance, facility to airport, 035°—5.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.0 miles after passing LOM, climb to 5000' on crs, 035° within 20 miles.
CAUTION: Towers, 3904'—3.4 miles SW; 3889'—2.1 miles SW; 3855'—2.7 miles SSW of airport.
Other change: Deletes transition from AMA RBn.
MSA within 25 miles of facility: 000°-360°—5400'.

City, Amarillo; State, Tex.; Airport name, Amarillo AFB/Municipal; Elev., 3605'; Fac. Class., MHW; Ident., AM; Procedure No. 1, Amdt. 6; Eff. date, 8 May 65; Sup. Amdt. No. 5; Dated, 13 Apr. 63

AMA VOR	AM LOM	Direct	5000	T-dn	300-1	300-1	300-1
ARO VOR	AM LOM	Direct	5000	C-dn	600-1	600-1	600-1½
Claude Int	AM LOM	Direct	5000	A-dn	NA	NA	NA
Canyon Int	AM LOM	Direct	5000				
Tower Int	AM LOM	Direct	5300				
Plant Int	AM LOM	Direct	5300				

Radar transitions and vectoring using Amarillo radar authorized in accordance with approved radar patterns.
Procedure turn E side of crs, 130° Outbnd, 310° Inbnd, 5000' within 10 miles. Nonstandard due to ATC requirements.
Minimum altitude over facility on final approach crs, 4200'.
Crs and distance, facility to airport, 310°—1.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.6 miles after passing AM LOM, turn left, climb to 6000' within 20 miles on 260° bearing from AM LOM.
CAUTION: Towers, 3920'—2 miles NW of airport; 3994'—2 miles NE of airport; 3929'—2 miles NE of airport; 204' AGL grain elevator located ¾ mile SW of Runway 35.
NOTES: No weather service at airport. Air carrier use not authorized. Tradewind MHW is AM LOM.
Other change: Deletes transition from AMA RBn.
MSA within 25 miles of facility: 000°-360°—5400'.

City, Amarillo; State, Tex. Airport name, Tradewind; Elev., 3642'; Fac. Class., MHW; Ident., AM; Procedure No. 1, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 20 June 64

				T-d	300-1	300-1	300-1
				T-n	500-1½	500-1½	500-1½
				C-d	1000-1½	1000-1½	1000-1½
				C-n	1000-2	1000-2	1000-2
				S-d-5	800-1½	800-1½	800-1½
				S-n-5	800-2	800-2	800-2
				A-dn	1000-2	1000-2	1000-2

Procedure turn N side of crs. 230° Outbnd, 050° Inbnd, 2700' within 5 miles of Munford Int. (Nonstandard due to obstruction.)
Minimum altitude over Munford Int on final approach crs, 2000'.
Crs and distance, Munford Int to airport, 050°—5.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.0 miles after passing Munford Int, or 0.0 mile after passing ANB RBn, climb immediately to 4000' eastbound on R-082 of ANB VOR within 20 miles.
CAUTION: Circling approaches, avoid area N, NW, and SE of airport due to high terrain.
NOTE: This procedure authorized only for aircraft having an operating VOR receiver in addition to an operating ADF receiver and Munford Int is identified.
MSA within 25 miles of facility: 000°-090°—3200'; 090°-180°—4000'; 180°-270°—4000'; 270°-360°—2800'.

City, Anniston; State, Ala.; Airport name, Anniston Municipal; Elev., 611'; Fac. Class., BMH; Ident., ANB; Procedure No. 1, Amdt. 2; Eff. date, 8 May 65; Sup. Amdt. No. 1; Dated, 9 Nov. 63

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Gordonsville, Va., VOR	AOM RBn	Direct	3400	T-dn*	300-1	300-1	NA
Rochelle Int	AOM RBn	Direct	3400	C-d	700-1	700-1	NA
Rockfish Int	AOM RBn	Direct	3600	C-n	700-2	700-2	NA
				S-d-3	700-1	700-1	NA
				S-n-3	700-2	700-2	NA
				A-dn	800-2	800-2	NA
				Minimums if OM received:			
				C-d	500-1	500-1	NA
				C-n	500-1½	500-1½	NA
				S-dn-3	400-1	400-1	NA

Procedure turn E side of crs, 207° Outbnd, 027° Inbnd, 3400' within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over MHW on final approach crs, 2300'; over OM, 1334'.
Crs and distance, MHW to airport, 027°—8.1 miles; OM to airport, 028°—4.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 8.1 miles after passing AOM RBn, make immediate left-climbing turn to 3400', direct to AOM RBn. Hold SW, 027° Inbnd 1-minute right turns.
CAUTION: 1164' obstruction, 2.5 miles NE of Runway 21.
*Runway 3 takeoffs: Make immediate left-climbing turn direct to AOM MHW, climb to 3400' in 1-minute right turn, NE Shuttle, 207° bearing Inbnd, then proceed as cleared.
*Runway 21 takeoffs: Climb direct to AOM MHW, climb to 3400' in 1-minute right turn, NE Shuttle, 207° bearing Inbnd, then proceed as cleared.
MSA within 25 miles of facility: 040°-220°—2900'; 220°-040°—4900'.

City, Charlottesville; State, Va.; Airport name, Charlottesville-Albemarle; Elev., 634'; Fac. Class., MHW; Ident., AOM; Procedure No. 1, Amdt. Orig.; Eff. date, 8 May 65

PROCEDURE CANCELLED EFFECTIVE 8 MAY 1965, OR UPON DECOMMISSIONING OF DAL RBN.

City, Dallas; State, Tex.; Airport name, Love Field; Elev., 485'; Fac. Class., BH; Ident., DAL; Procedure No. 2, Amdt. 5; Eff. date 30 May 64; Sup. Amdt. No. 4; Dated, 24 Aug. 63

Makapuu Pt RBn	HN LOM	Direct	5000	T-dn	300-1	300-1	200-½
Honolulu VOR	HN LOM	Direct	3600	C-dn*	500-1	500-1	500-1½
Breakers Int	10-mile DME Fix, R-258 HNL VOR	Direct	2200	S-dn-8	500-1	500-1	500-1
10-mile DME Fix, R-258 HNL-VOR	HN LOM (final)	Direct	2200	A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side of crs, 258° Outbnd, 078° Inbnd, 3600' within 10 miles.
Minimum altitude over facility on final approach crs, **2200'.
Crs and distance, facility to airport, 079°—5.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.9 miles after passing HN LOM, make right turn, climb to 4000' on a 164° bearing from HN LOM, reverse crs and return to the HN LOM at 5000'.
CAUTION: Terrain rises sharply N side of final approach crs; within 2.2 miles, 1000'; 4.1 miles, 2566'; 5.4 miles, 3098'.
Other change: Deletes transition from Int 170° bearing Kahuku point RBn and 236° bearing Makapuu point RBn.
*Circling N of airport not authorized due to 385' terrain, 1.5 miles N and 524'—2 miles NE.
**Do not descend below 2200' until over LOM Inbnd due to NAS Barber's Point 1500' jet traffic pattern.
MSA within 25 miles of facility: 000°-090°—5100'; 090°-180°—3100'; 180°-270°—2800'; 270°-360°—6100'.

City, Honolulu; State, Hawaii; Airport name, Honolulu International; Elev., 13'; Fac. Class., LOM; Ident., HN; Procedure No. 1, Amdt. 6; Eff. date, 8 May 65; Sup. Amdt. No. 5; Dated, 6 June 64

Flat Rock VOR	LOM	Direct	2000	T-dn	300-1	300-1	200-½
Richmond RBn	LOM	Direct	1500	C-dn	400-1	500-1	500-1½
Manakin RBn	LOM	Direct	2000	S-dn-6	400-1	400-1	400-1
HPW VOR	LOM	Direct	2000	A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side of crs, 243° Outbnd, 063° Inbnd, 1500' within 10 miles.
Minimum altitude over facility on final approach crs, 1300'.
Crs and distance, facility to airport, 063°—3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing LOM, climb to 2000' on crs 063° within 10 miles, then left turn direct to Manakin RBn. Hold NW, 124° Inbnd, 1-minute right turns.
MSA within 25 miles of facility: 000°-090°—1600'; 090°-180°-2100'; 180°-270°—1500'; 270°-360°—2100'.

City, Richmond; State, Va.; Airport name, Richard E. Byrd Flying Field; Elev., 167'; Fac. Class., LOM; Ident., RI; Procedure No. 1, Amdt. 15; Eff. Date, 8 May 65; Sup. Amdt. No. 14; Dated, 14 Nov. 64

RIC VOR	RIC RBn	Direct	2000	T-dn	300-1	300-1	200-½
MNV RBn	RIC RBn	Direct	2000	C-dn	400-1	500-1	500-1½
FAK VOR	RIC RBn	Direct	2000	A-dn	800-2	800-2	800-2
HPW VOR	RIC RBn	Direct	2000				

Radar vectoring authorized in accordance with approved patterns.
Procedure turn W side of crs. 218° Outbnd, 038° Inbnd, 2000' within 10 miles. Nonstandard due to obstruction.
Minimum altitude over facility on final approach crs, 900'.
Crs and distance, facility to airport, 018°—1.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.7 miles after passing RIC RBn, make immediate left-climbing turn to 2000' on crs, 360°, then proceed direct to Manakin RBn. Hold NW, 124° Inbnd, 1-minute right turns.
MSA within 25 miles of facility: 000°-090°—1600'; 090°-180°—2100'; 180°-270°—1600'; 270°-360°—2100'.

City, Richmond; State, Va.; Airport name, Richard E. Byrd Flying Field; Elev., 167'; Fac. Class., SBH; Ident., RIC; Procedure No. 2, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 14 Nov. 64

Lakeport Int	LOM (final)	Direct	1700	T-dn*	300-1	300-1	200-½
Syracuse VOR	LOM	Direct	2000	C-dn	700-1	700-1	700-1½
Toni Int	LOM	Direct	2000	S-dn-28	700-1	700-1	700-1
Syracuse RBn	SY LOM	Direct	2000	A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn N side of crs, 098° Outbnd, 278° Inbnd, 2000' within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1700'.
Crs and distance, facility to airport, 278°—3.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing SY LOM, climb straight ahead to 2000' direct to SYR RBn. Hold West of SYR RBn, 098° Inbnd, 1-minute left turns.
CAUTION: 836' antenna 1.1 miles S of approach end of Runway 28. 1220' terrain, 15 miles ESE of LOM. 2549' antenna, 10.4 miles S of airport.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
*600-1 required for takeoff on Runway 14.
MSA within 25 miles of the facility: 000°-090°—2500'; 090°-180°—3500'; 180°-270°—4000'; 270°-360°—2000'.

City, Syracuse; State, N.Y.; Airport name, Clarence E. Hancock; Elev., 421'; Fac. Class., LOM; Ident., SY; Procedure No. 1, Amdt. 19; Eff. date, 8 May 65; Sup. Amdt. No. 18; Dated, 5 Sept. 64

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Syracuse VOR	Syracuse RBn	Direct	2000	T-dn*	300-1	300-1	300-1
Lakeport Int	Syracuse RBn	Direct	2000	C-d	700-1	700-1	700-1½
Weedsport Int	Syracuse RBn (final)	Direct	2000	C-n	700-2	700-2	700-2
Whitford Int	Syracuse RBn (final)	Direct	2000	S-d-10	600-1	600-1	600-1
Syracuse LOM	Syracuse RBn	Direct	2000	S-n-10	600-2	600-2	600-2
				A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn N side of crs, 280° Outbnd, 100° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs, 2000'.
Crs and distance, facility to airport, 100°—6.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.7 miles after passing SYR RBn, climb to 2000' direct to SY LOM. Hold E of SY LOM, 278° Inbnd, 1-minute right turns.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
CAUTION: 830' antenna, 1.1 miles S of approach end of Runway 28. 2549' antenna, 10.4 miles S of airport.
Other change: Deletes transition from Plainville Int.
*600-1 required for takeoff on Runway 14.
MSA within 25 miles of the facility: 000°-090°—2500'; 090°-180°—4000'; 180°-270°—3000'; 270°-360°—2000'.

City, Syracuse; State, N.Y.; Airport name, Clarence E. Hancock; Elev. 421'; Fac. Class., SBH; Ident., SYR; Procedure No. 2, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 5 Sept. 64

Chester VOR	BAF RBn	Direct	3300	T-d*	700-1	700-1	700-1
Westfield VOR	BAF RBn	Direct	3000	T-n*	700-2	700-2	700-2
				C-d	800-1	800-2	800-2
				C-n	800-2	800-2	800-2
				S-d-20	800-1	800-1½	800-1½
				S-n-20	800-2	800-2	800-2
				A-dn	1500-2	1500-2	1500-2

#Procedure turn W side of crs, 023° Outbnd, 203° Inbnd, 3000' within 10 miles.
Minimum altitude over facility on final approach crs, 2000'.
Crs and distance, facility to airport, 203°—4.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.8 miles after passing BAF RBn, climb to 2000' on heading of 203° within 10 miles, make right-climbing turn to 3000' direct to BAF RBn. Hold N, 203° Inbnd, 1-minute right turns.
*800-1 day, 800-2 night required for takeoff on Runways 9 and 15.
#Final approach from a holding pattern at BAF RBn not authorized. Procedure turn required.
MSA within 25 miles of facility: 000°-090°—2800'; 090°-180°—2300'; 180°-270°—3300'; 270°-360°—3600'.

City, Westfield; State, Mass.; Airport name, Barnes Municipal; Elev., 270'; Fac. Class., SBMHZ; Ident., BAF; Procedure No. 1, Amdt. 1; Eff. date, 8 May 65; Sup. Amdt. No. Orig.; Dated, 5 Oct. 63

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
AM LOM	AMA VOR	Direct	5000	T-dn	300-1	300-1	300-1
ARO VOR	AMA VOR	Direct	5000	C-dn	500-1	500-1	500-1½
				S-dn-21*	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar transitions and vectoring using Amarillo radar authorized in accordance with approved radar patterns.
Procedure turn N side of crs, 030° Outbnd, 210° Inbnd, 5000' within 10 miles.
Minimum altitude over facility on final approach crs, 4600'.
Crs and distance, facility to airport, 210°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing AMA VOR, climb to 5000' on R-210 within 15 miles or, when directed by ATC, turn left, climb to 5000' on R-076 within 15 miles.
CAUTION: 3764' grain elevator located adjacent to SW boundary of airport.
Other change: Deletes transition from Amarillo RBn.
*Runway 21: 400-¾ authorized, except for 4-engine turbojet aircraft with operative high-intensity runway lights.
MSA within 25 miles of facility: 000°-090°—4900'; 090°-180°—4700'; 180°-270°—5300'; 270°-360°—5000'.

City, Amarillo; State, Tex.; Airport name, Amarillo AFB/Municipal; Elev., 3605'; Fac. Class., BVORTAC; Ident., AMA; Procedure No. 1, Amdt. 12; Eff. date, 8 May 65; Sup. Amdt. No 11; Dated, 24 Oct. 64

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Amarillo VOR	Buffalo VOR	Direct	5000	T-dn	300–1	300–1	200–½
ILS LOM	Buffalo VOR	Direct	5000	C-dn	500–1	500–1	500–1½
Canyon Int	Buffalo VOR	Direct	5000	S-dn-8	500–1	500–1	500–1
Claude Int	Buffalo VOR	Direct	5000	A-dn	800–2	800–2	800–2
Finley Int	Buffalo VOR	Direct	5000				
Palo Duro Int	Buffalo VOR	Direct	5000				
Plant Int	Buffalo VOR	Direct	5300				
Sam Int	Buffalo VOR	Direct	5300				
Tower Int	Buffalo VOR	Direct	5000				
West Side Int	Buffalo VOR	Direct	5000				

Radar transitions and vectoring using Amarillo radar authorized in accordance with approved radar patterns.
Teardrop procedure turn—Procedure turn E side of crs, 195° Outbnd, 033° Inbnd, 5100′ within 10 miles.
Minimum altitude over facility on final approach crs, 5100′, and maintain 5000′ or above until passing OM/LOM.
Crs and distance, facility to airport, 033°—7.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.7 miles after passing ARO VOR, climb to 5000′ on R-033 ARO VOR within 20 miles.
CAUTION: Towers, 3994′—3.4 miles SW; 3886′—2.1 miles SW; 3885′—2.7 miles SW of airport; 3764′ grain elevator located adjacent to SW boundary of airport.
Other change: Deletes transition from Amarillo RBn.
MSA within 25 miles of facility: 000°–360°—5400′.

City, Amarillo; State, Tex.; Airport name, Amarillo AFB/Municipal; Elev., 3605′; Fac. Class, VORW; Ident., ARO; Procedure No. 2, Amdt. 1; Eff. date, 8 May 65; Sup. Amdt. No. Orig.; Dated, 9 May 64

AMA VOR	ARO VOR	Direct	5000	T-dn	300–1	300–1	300–1
AM LOM	ARO VOR	Direct	5000	C-dn	500–1	500–1	500–1½
				A-dn	NA	NA	NA

Procedure turn E side of crs, 182° Outbnd, 002° Inbnd, 5100′ within 10 miles.
Minimum altitude over facility on final approach crs, 4700′.
Crs and distance, facility to airport, 002°—3.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.2 miles after passing ARO VOR, turn left, climb to 6000′ on R-241, AMA VOR within 20 miles.
CAUTION: Towers, 3929′ and 3904′—2.1 miles NE of airport. Silver painted water tower approximately 3800′—2 miles NW.
NOTES: Radar vectoring authorized. No weather service at airport. Air carrier use not authorized.
MSA within 25 miles of facility: 000°–360°—5400′.

City, Amarillo; State, Tex.; Airport name, Tradewind; Elev., 3642′; Fac. Class., VORW; Ident., ARO; Procedure No. 1, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 16 May 64

PROCEDURE CANCELLED EFFECTIVE 8 MAY 1965.

City, Farmingdale; State, N.Y.; Airport name, Republic Aviation Corp.; Elev., 82′; Fac. Class., BVOR; Ident., DPK; Procedure No. 1, Amdt. 2; Eff. date, 4 July 64; Sup. Amdt. No. 1; Dated, 2 Apr. 64

Miles City RBn	MLS VOR	Direct	4500	T-dn	300–1	300–1	200–½
				C-dn	400–1	500–1	500–1½
				S-dn-4	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Procedure turn S side of crs, 210° Outbnd, 030° Inbnd, 4500′ within 10 miles.
Minimum altitude over VOR on final approach crs, 3500′; over Fort Int, 3100′.
Crs and distance, VOR to airport, 030°—3.3 miles; Fort Int to airport, 030°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.3 miles after passing MLS VOR, climb to 4500′ on R-062 within 10 miles.
NOTE: Final approach from holding pattern at VOR not authorized. Procedure turn required.
MSA within 25 miles of facility: 000°–360°—4400′.

City, Miles City; State, Mont.; Airport name, Miles City; Elev., 2628′; Fac. Class., BVORTAC; Ident., MLS; Procedure No. 1, Amdt. 8; Eff. date, 8 May 65; Sup. Amdt. No. 7; Dated, 17 Oct. 64

				T-dn*	300–1	300–1	200–½
				C-dn	700–1	700–1	700–1½
				S-dn-14	500–1	500–1	500–1
				A-dn	800–2	800–2	800–2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side of crs, 311° Outbnd, 131° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 1700′.
Crs and distance, facility to airport, 131°—4.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles after passing SYR VOR, make left-climbing turn to 2000′ direct to SYR VOR. Hold NW of SYR VOR on R-311, 1-minute right turns, 131° Inbnd.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
CAUTION: 836′ antenna, 1.1 miles S of approach end of Ru way 28. 2549′ antenna, 10.4 miles S of airport.
*600–1 required for takeoff on Runway 14.
MSA within 25 miles of the facility: 000°–090°—2500′; 090°–180°—4000′; 180°–270°—3000′; 270°–360°—2000′.

City, Syracuse; State, N.Y.; Airport name, Clarence E. Hancock; Elev., 421′; Fac. Class., BVORTAC; Ident., SYR; Procedure No. 1, Amdt. 11; Eff. date, 8 May 65; Sup. Amdt. No. 10; Dated 5 Sept. 64

				T-dn	300–1	300–1	200–½
				C-dn	500–1	500–1	500–1½
				S-dn-6	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Procedure turn S side of crs, 226° Outbnd, 046° Inbnd, 2400′ within 10 miles.
Minimum altitude over facility on final approach crs, 1100′.
Crs and distance, facility to airport, 046°—2.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.6 miles after passing ART VOR, make left-climbing turn to 2400′ and return to ART VOR. Hold SW of ART VOR on R-226, 1-minute right turns, 046° Inbnd.
NOTE: Approach from a holding pattern not authorized. Procedure turn required.
MSA within 25 miles of facility: 000°–090°—2000′; 090°–180°—3000′; 180°–270°—2000′; 270°–360°—2200′.

City, Watertown; State, N.Y.; Airport name, Municipal; Elev., 325′; Fac. Class., BVOR; Ident., ART; Procedure No. 1, Amdt. 6; Eff. date, 8 May 65; Sup. Amdt. No. 5; Dated, 25 July 64

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-d	500-1	NA	NA
				C-d	800-1	NA	NA
				A-d	NA	NA	NA

Procedure turn S side of crs, 220° Outbnd, 040° Inbnd, 4000' within 10 miles.
Minimum altitude over facility on final approach crs, 3000'.
Crs and distance, facility to airport, 040°—2.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.2 miles after passing VOR, climb on crs, 040° to 4000' within 10 miles. Make right-climbing turn to 4000', return to SFK VOR. Hold SW, R-220, 1-minute right turns.
MSA within 25 miles of facility: 000°-360°—3700'.

City, Wellsboro; State, Pa.; Airport name, Grand Canyon State; Elev., 1900'; Fac. Class., L-BVORTAC; Ident., SFK; Procedure No. 1, Amdt. Orig.; Eff. date, 8 May 65

3. By amending the following terminal very high frequency omnirange (TerVOR) procedures prescribed in § 97.13 to read:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-31	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn W side of crs, 144° Outbnd, 324° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 600'.
Crs and distance, breakoff point to Runway 31, 304°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of ALI VOR, turn right, climb to 1700' on R-330 within 10 miles of ALI VOR.
MSA within 25 miles of the facility: 000°-090°—2100'; 090°-180°—2000'; 180°-270°—1700'; 270°-360°—1700'.

City, Alice; State, Tex.; Airport name, Alice International; Elev., 178'; Fac. Class., L-BVOR; Ident., ALI; Procedure No. TerVOR-31, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 18 May 63

				T-dn	300-1	300-1	200-½
				C-dn	800-1	800-1	800-1½
				A-dn	1000-2	1000-2	1000-2

Procedure turn S side of crs, 261° Outbnd, 081° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 978'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of ALI VOR, turn left, climb to 1700' on R-330 within 10 miles of ALI VOR.
Other change: Deletes caution note.
MSA within 25 miles of facility: 000°-090°—2100'; 090°-180°—2000'; 180°-270°—1700'; 270°-360°—1700'.

City, Alice; State, Tex.; Airport name, Alice International; Elev., 178'; Fac. Class., L-BVOR; Ident., ALI; Procedure No. TerVOR (R-261), Amdt. 5; Eff. date, 8 May 65; Sup. Amdt. No. 4; Dated, 19 Jan. 63

Britton VOR	Golf Int	Direct	3300	T-dn	300-1	300-1	200-½
				C-dn	600-1	600-1	600-1½
				S-dn-36	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 178° Outbnd, 358° Inbnd, 2600' within 10 miles of River Int. Beyond 10 miles not authorized.
Minimum altitude over Golf Int on final approach crs, 1600'; over River Int, 1000'.
Crs and distance, Golf Int to airport, 358°—4.1 miles; River Int to airport, 358°—2.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2 miles after passing River Int, proceed direct to Addison VOR, climbing to 2000' or, when directed by ATC, turn right, proceed direct to Dallas VOR, climbing to 2000'.
NOTES: (1) Radar vectoring authorized in accordance with approved patterns. (2) Authorized only for aircraft equipped with dual VOR receivers.
MSA within 25 miles of facility: 000°-180°—2100'; 180°-270°—3400'; 270°-360°—2200'.

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485'; Fac. Class., T-BVOR; Ident., ADS; Procedure No. TerVOR-36, Amdt. Orig.; Eff. date, 8 May 65

Hibbing VOR	Eveleth VOR	Direct	3100	T-dn	300-1	300-1	NA
				C-d	400-1	500-1	NA
				C-n	400-1½	500-1½	NA
				S-dn-27	400-1	400-1	NA
				A-dn	NA	NA	NA

Procedure turn N side of crs, 087° Outbnd, 267° Inbnd, 2800' within 10 miles.
Minimum altitude over facility on final approach crs, 1800'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile after passing VOR, make left climbing turn to 3100' on R-087 within 10 miles. Return to VOR and hold E on R-087.
NOTE: Night takeoffs and landings not authorized on Runways 5-23.
MSA within 25 miles of facility: 000°-090°—3100'; 090°-270°—2800'; 270°-360°—3500'.

City, Eveleth; State, Minn.; Airport name, Eveleth-Virginia Municipal; Elev., 1385'; Fac. Class., L-BVOR; Ident, EVM; Procedure No. TerVOR-27, Amdt. 1; Eff. date, 8 May 65; Sup. Amdt. No. Orig.; Dated, 1 Aug. 64

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Flat Rock VOR	Biltmore Int	Direct	2000	T-dn	300-1	300-1	200-½
Biltmore Int	RIC VOR (final)	Direct	600	C-dn	600-1	600-1	600-1½
Manakin RBn	RIC VOR	Direct	2000	S-dn-15	600-1	600-1	600-1
5-mile radar fix	RIC VOR (final)	Direct	600	A-dn	800-2	800-2	800-2
				If aircraft equipped with dual VOR receivers and Biltmore Int or 5-mile radar fix received, the following minimums apply:			
				S-dn-15	400-1	400-1	400-1

Radar vectoring authorized in accordance with approved patterns.
Procedure turn N side of crs, 347° Outbnd, 167° Inbnd, 1700' within 10 miles.
Minimum altitude over Biltmore Int on final approach crs, 800'; over facility, 600'.
Crs and distance, breakoff point to approach end of runway, 154°—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.6 mile of RIC VOR, climb to 2000' on R-167 RIC VOR within 10 miles, return to RIC VOR. Hold SW, 220° Outbnd, 040° Inbnd, 1-minute right turns.
MSA within 25 miles of facility: 000°-180°—1600'; 180°-360°—2100'.

City, Richmond; State, Va.; Airport name, Richard E. Byrd Flying Field; Elev., 167'; Fac. Class., BVOR; Ident., RIC; Procedure No. TerVOR-15, Amdt. 13; Eff. date, 8 May 65; Sup. Amdt. No. 12; Dated, 14 Nov. 64

Whitehouse Int	Meadow Int	Direct	1900	T-dn	300-1	300-1	200-½
Meadow Int	RIC VOR (final)	Direct	600	C-dn	500-1	500-1	500-1½
New Kent Int	RIC VOR	Direct	1900	S-dn-24	400-1	400-1	400-1
5-mile radar fix	RIC VOR (final)	Direct	600	A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn N side of final approach crs, 075° Outbnd, 255° Inbnd, 1900' within 10 miles. Do not descend below 1900' until passing Meadow Int, or 5-mile radar fix.
Minimum altitude over facility on final approach crs, 600'.
Crs and distance, breakoff point to approach end of Runway 24, 243°—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.6 mile of RIC VOR, climb on R-255 to 2000' within 10 miles, return to RIC VOR. Hold SW, 220° Outbnd, 040° Inbnd, 1-minute right turn.
MSA within 25 miles of facility: 000°-180°—1600'; 180°-360°—2100'.

City, Richmond; State, Va.; Airport name, Richard E. Byrd Flying Field; Elev., 167'; Fac. Class., BVOR; Ident., RIC; Procedure No. TerVOR-24, Amdt. 5; Eff. date, 8 May 65; Sup. Amdt. No. 4; Dated, 14 Nov. 64

4. By amending the following very high frequency omnirange-distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn	300-1	300-1	200-1
				C-dn*	900-1½	900-1½	900-1½
				A-dn*	1100-2	100-2	100-2
				If 4.2-miles DME Fix R-245 received, the following minimums apply:*			
				C-dn	500-1½	500-1½	800-1½
				A-dn	800-2	800-2	800-2

Radar transitions authorized in accordance with approved radar patterns of Kennedy ASR.
Procedure turn N side of crs, 065° Outbnd, 245° Inbnd, 1800' within 10 miles.
Minimum altitude over facility on final approach crs, 1800', over 4.2 -mile DME Fix R-245, 1000'.
*Maintain 1000' until passing 4.2-mile DME Fix R-245.
Crs and distance, facility to airport, 245°—6.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.2 miles after passing Deer Park VOR, make a right climbing turn to 1800', proceed direct to Deer Park VOR. Hold NE on R-065, 1-minute right turns.
NOTE: This approach authorized only during the hours that the control tower is in operation.
MSA within 25 miles of facility: 000°-360°—1700'.

City, Farmingdale; State, N.Y.; Airport name, Republic Aviation Corp.; Elev., 82'; Fac. Class., BVORTAC; Ident., DPK; Procedure No. VOR/DME No. 1, Amdt. Orig; Eff. date, 8 May 65

Southgate Int**	10-mile DME Fix R-258	12-15 arc	2200	T-dn	300-1	300-1	200-½
Breakers Int	10-mile DME Fix R-258	Direct	2200	C-dn**	600-1	600-1	600-1½
10-mile DME Fix R-258	1.1-mile DME Fix R-258 or LOM	Direct	2200	S-dn-8#	500-1	800-1	800-1
1.1-mile DME Fix R-258 or LOM	HNL VOR	Direct	1700	A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side of crs, 258° Outbnd, 078° Inbnd, 3600' within 10 miles.
Minimum altitude at 1.1-mile DME Fix R-258 or LOM, *2200'.
Crs and distance, facility to airport, 078°—4.8 miles; 1.1-mile DME Fix R-258 or LOM to airport, 078°—5.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.8 miles after passing HNL VOR or at 4.8-mile DME Fix R-078, make right turn, climb to 2000' and proceed to Southgate Int via R-168 HNL VOR.
CAUTION: Terrain rises sharply on N side final approach crs; within 2.2 miles, 1000'; 4.1 miles, 2566'; 5.4 miles, 3088'.
*Do not descend below 2200' until over the 1.1-mile DME (LOM) Inbnd due to NAS Barber's Point 1500' jet traffic pattern.
**Circling N of airport not authorized because of terrain, 385'—1.5 miles N and 524'—2 miles NE.
#Straight-in minimums not authorized unless aircraft receives 1.1-mile DME Fix or LOM.
Other change: Deletes note regarding use of DME for final with elimination of procedure turn.

City, Honolulu; State, Hawaii; Airport name, Honolulu International; Elev., 13'; Fac. Class., BVORTAC; Ident., HNL; Procedure No. VOR/DME No. 1, Amdt. 1; Eff. date, 8 May 65; Sup. Amdt. No. Orig.; Dated, 29 June 63

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Malone Int	6-mile DME Fix, R-110	Direct	3500	T-dn	300–1	300–1	200–½
6-mile DME Fix, R-110	Massena VOR (final)	Direct	1700	C-dn	500–1	600–1	600–1½
				A-dn	800–2	800–2	800–2

Minimum altitude over facility on final approach crs, 1700'.
Crs and distance, facility to airport, 298°—5.3 miles.
Malone Int to 6-mile DME Fix, R-110—3500'; 6-mile DME Fix, R-110 to Massena VOR (final)—1700'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing MSS VOR, make a right-climbing turn to 2000'; return to Massena VOR. Hold Southeast of MSS VOR, 298° Inbnd, 1-minute right turns.
CAUTION: 598' tower (2.0 miles SW of airport).
MSA within 25 miles of facility: 000°–090°—2000'; 090°–180°—3500'; 180°–270°—3000'; 270°–360°—2000'.

City, Massena; State, N.Y.; Airport name, Richards Field; Elev., 215'; Fac. Class., H-BVORTAC; Ident., MSS; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. date, 8 May 65

West Bangor Int	6-mile DME Fix, R-129	Direct	3500	T-dn	300–1	300–1	200–½
6-mile DME Fix, R-129	Massena VOR (final)	Direct	1700	C-dn	500–1	600–1	600–1½
				A-dn	800–2	800–2	800–2

Minimum altitude over facility on final approach crs, 1700'.
Crs and distance, facility to airport, 298°—5.3 miles.
West Bangor Int to 6-mile DME Fix, R-129—3500'; 6-mile DME Fix, R-129 to MSS VOR (final)—1700'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing MSS VOR, make a right-climbing turn to 2000'; return to Massena VOR. Hold SE of MSS VOR, 298° Inbnd, 1-minute right turns.
CAUTION: 598' tower (2.0 miles SW of airport).
MSA within 25 miles of facility: 000°–090°—2000'; 090°–180°—3500'; 180°–270°—3000'; 270°–360°—2000'.

City, Massena; State, N.Y.; Airport name, Richards Field; Elev., 215'; Fac. Class., H-BVORTAC; Ident., MSS; Procedure No. VOR/DME No. 2, Amdt. Orig.; Eff. date, 8 May 65

10-mile DME Fix R-210	0.0-mile DME Fix R-210	Direct	3500	T-dn	300–1	300–1	200–½
				C-dn	400–1	500–1	500–1½
				S-dn-4	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Procedure turn S side of crs, 210° Outbnd, 030° Inbnd, 4500' within 10 miles.
Minimum altitude over 1.5-mile DME Fix R-030 on final approach crs, 3100'.
Crs and distance, 1.5-mile DME Fix R-030 to airport, 030°—1.8 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 3.3-mile DME Fix R-030, climb to 4500' on R-062 within 10 miles.
NOTES: (1) When authorized by ATC, MLS DME may be used to position aircraft for straight-in approach at 4500' between R-097 clockwise to R-271 via 10-mile DME arc with the elimination of procedure turn. (2) Final approach from holding pattern at VOR not authorized. Procedure turn required.
MSA within 25 miles of facility: 000°–360°—4400'.

City, Miles City; State, Mont.; Airport name, Miles City; Elev., 2628'; Fac. Class., BVORTAC; Ident., MLS; Procedure No. VOR/DME No. 1, Amdt. 5; Eff. date, 8 May 65; Sup. Amdt. No. 4; Dated, 3 Oct. 64

MLS VOR	10-mile DME Fix R-032	Direct	4500	T-dn	300–1	300–1	200–½
				C-dn	400–1	500–1	500–1½
				S-dn-22	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Procedure turn N side of crs, 032° Outbnd, 212° Inbnd, 4500' between 10- and 20-mile DME Fix R-032.
Minimum altitude over 10-mile DME Fix R-032 on final approach crs, 4500'.
Crs and distance, 10-mile DME Fix R-032 to airport, 212°—5.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 4.4-mile DME Fix R-032, climb to 4500' on R-212 within 10 miles of MLS VOR.
NOTE: When authorized by ATC, MLS DME may be used to position aircraft for straight-in approach at 5500' between R-271 clockwise to R-097 via 15-mile DME arc with the elimination of procedure turn.

City, Miles City; State, Mont.; Airport name, Miles City; Elev., 2628'; Fac. Class., BVORTAC; Ident., MLS; Procedure No. VOR/DME No. 2, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 16 Nov. 63

5. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
AMA VOR	LOM	Direct	5000	T-dn	300-1	300-1	300-½
Canyon Int	LOM	Direct	5000	C-dn	500-1	500-1	500-1½
Claude Int	LOM	Direct	5000	S-dn-03*#	300-½	300-½	300-½
Finley Int	LOM	Direct	5000	A-dn	600-2	600-2	600-2
Palo Duro Int	LOM	Direct	5000				
Plant Int	LOM	Direct	5300				
Sam Int	LOM	Direct	5300				
Tower Int	LOM	Direct	5300				
West Side Int	LOM	Direct	5000				
ARO VOR	LOM	Direct	5000				

Radar transitions and vectoring using Amarillo radar authorized in accordance with approved radar patterns.
Procedure turn S side of crs, 215° Outbnd, 035° Inbnd, 5000' within 10 miles.
Altitude of glide slope and distance to approach end of runway at OM, 5000'—5.0 miles; at MM, 3815'—0.6 mile.
Minimum altitude at glide slope interception Inbnd on final, 5000'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 5000' on NE crs, ILS within 20 miles or, when directed by ATC, (1) turn right, climb to 5000' and intercept R-076, AMA VOR within 20 miles or (2) turn left, climb to 5300' on R-307, AMA VOR within 20 miles.
CAUTION: Towers, 3994'—3.4 miles SW; 3885'—2.1 miles SW; 3885'—2.7 miles SW of airport. 3764' grain elevator located adjacent to SW boundary of airport.
NOTE: Glide slope restricted below 300', AGL.
Other change: Deletes transitions from AMA RBn and Borger Int.
*400-¾ required when glide slope not received. 400-½ authorized, except for 4-engine turbojet aircraft, with operative ALS.
#300-¾ required when approach lights inoperative.

City, Amarillo; State, Tex.; Airport name, Amarillo AFB/Municipal; Elev., 3605'; Fac. Class., ILS; Ident., I-AMA; Procedure No. ILS-3, Amdt. 7; Eff. date, 8 May 65; Sup. Amdt. No. 6; Dated, 3 Aug. 63

AM LOM	AMA VOR	Direct	5000	T-dn	300-1	300-1	300-½
ARO VOR	AMA VOR	Direct	5000	C-dn	500-1	500-1	500-1½
				S-dn-21	300-1	300-1	300-1
				A-dn	800-2	800-2	800-2

Radar vectoring and transitions using Amarillo radar authorized in accordance with approved radar pattern.
Procedure turn S side of crs, 035° Outbnd, 215° Inbnd, 5000' within 10 miles. (Nonstandard due to ATC requirements).
No glide slope.
Minimum altitude over AMA VOR*, R-125 on final approach crs, 4600'.
Crs and distance, AMA VOR*, R-125 to airport, 215°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing AMA VOR, climb to 5000' on SW crs of ILS within 10 miles of LOM or, when directed by ATC, turn left and intercept R-076, AMA VOR, climbing to 5000' within 10 miles.
CAUTION: 3764' grain elevator located adjacent to SW boundary of airport.
Other change: Deletes transitions from AMA RBn and Borger Int.
*AMA VOR lies 1000' NW of localizer crs. Positive station passage required for descent below 4600'.

City, Amarillo; State, Tex.; Airport name, Amarillo AFB/Municipal; Elev., 3605'; Fac. Class., ILS; Ident., I-AMA; Procedure No. ILS-21 (back crs), Amdt. 5; Eff. date, 8 May 65; Sup. Amdt. No. 4; Dated, 18 Apr. 64

Southgate Int	W crs, ILS and 10-mile DME Fix	12-15 arc	2200	T-dn	300-1	300-1	300-½
Honolulu VOR	LOM	Direct	3600	C-dn**	500-1	500-1	500-1½
Breakers Int	W crs, ILS and 10-mile DME Fix	Via W crs, ILS	2200	S-dn-8*	300-½	300-½	300-½
W crs, ILS and 10-mile DME Fix	LOM (final)	Direct	2200	A-dn	600-2	600-2	600-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side crs, 250° Outbnd, 070° Inbnd, 3600' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2300'.##
Altitude at glide slope and distance to approach end of runway at OM, 1961'—5.9 miles; at MM, 247'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, make right turn, climb to 2000' and proceed to Southgate VHF Int via HNL VOR R-168.
CAUTION: Terrain rises sharply on N side final approach crs; within 2 2 miles, 1000'; 4.1 miles, 2560'; 5.4 miles, 3098'.
Other change: Deletes note regarding use of DME for final with elimination of procedure turn.
##Do not descend below 2200' until intercepting glide slope due to NAS Barber's Point 1500' jet traffic pattern.
*400-¾ required when glide slope not utilized.
**Circling N of airport not authorized because of terrain, 385'—1.5 miles N and 524'—2 miles NE.

City, Honolulu; State, Hawaii; Airport name, Honolulu International; Elev., 13'; Fac. Class., ILS; Ident., I-HNL; Procedure No. ILS-8, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 1 June 63

Syracuse VOR	Syracuse RBn	Direct	2000	T-dn*	300-1	300-1	300-½
Lakeport Int	Syracuse RBn	Direct	2000	C-dn	700-1	700-1	700-1½
Weedsport Int	Syracuse RBn (final)	Direct	2000	S-dn-10**	400-1	400-1	400-1
Whitford Int	SYR RBn (final)	Direct	2000	A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn N side of crs, 278° Outbnd, 098° Inbnd, 2000' within 10 miles.
Minimum altitude over SYR RBn on final approach crs, 2000'; over Liverpool Int, 1000'.
Crs and distance, SYR RBn to airport, 098°—6.7 miles. Crs and distance, Liverpool Int to airport, 098—3.4 miles.
No glide slope.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.7 miles after passing SYR RBn (3.4 miles after Liverpool Int), climb straight ahead to 2000' to SY LOM. Hold E of SY LOM, 278° Inbnd, 1-minute right turns.
CAUTION: 836' antenna, 1.1 miles S of approach end of Runway 28. 2549' antenna, 10.4 miles S of airport.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
*900-1 required for takeoff on Runway 14.
**400-¾ authorized, except for 4-engine turbojet aircraft, with operative high-intensity runway lights. Descent below 1000' not authorized for aircraft not equipped for simultaneous reception of VOR and ILS.
Other change: Deletes transition from Plainville Int.

City, Syracuse; State, N.Y.; Airport name, Clarence E. Hancock; Elev., 421'; Fac. Class., ILS; Ident., I-SYR; Procedure No. ILS-10 (back crs), Amdt. 11; Eff. date, 8 May 65; Sup. Amdt. No. 10; Dated, 10 Oct. 64

6. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				Precision approach			
				T-dn	800-1	800-1	800-1
				C-d	800-1½	800-1½	800-1½
				C-n	1000-2	1000-2	1000-2
				S-dn-6L	300-1	300-1	300-1
				A-dn	1000-2	1000-2	1000-2
				Surveillance approach			
				T-dn	800-1	800-1	800-1
				C-d	800-1½	800-1½	800-1½
				C-n	1000-2	1000-2	1000-2
				S-dn-6L	400-1	400-1	400-1
				A-dn	1000-2	1000-2	1000-2

This instrument approach to be conducted in accordance with U.S. Navy GCA standard instrument approach and applies to civil aircraft only.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, Runway 6L: Climb on 062° to 2000' and contact GCA.
NOTES: 1. 3.0° glide slope. 2. Radar handoffs by Guam Radar (FAA) authorized in accordance with approved patterns.

City, Agana; Guam, M.I.; Airport name, NAS Agana; Elev., 298'; Fac. Class., NAS Agana; Ident., GCA; Procedure No. 1, Amdt. 2; Eff. date, 8 May 65; Sup. Amdt. No. 1; Dated, 17 Apr. 65

Radar terminal area maneuvering sectors and altitudes														Ceiling and visibility minimums			
From	To	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Condition	2-engine or less		More than 2-engine, more than 65 knots
															65 knots or less	More than 65 knots	
*360	195	0-17	4600														
**196	359	0-17	5000														
														Surveillance approach			
														T-dn	300-1	300-1	200-½
														C-dn	400-1	500-1	500-1½
														S-dn-21, 03, 13, 31‡	400-1	400-1	400-1
															400-1	400-1	500-1½
														A-dn	800-2	800-2	800-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, Runway 03: Climb to 5000' and proceed to Amarillo VOR or, when directed by ATC, turn right and climb to 5000', proceeding out R-076 Amarillo VOR within 15 miles. Runway 21: Climb to 5000' and proceed to LOM or, when directed by ATC, turn left and climb to 5000', proceeding out R-076 Amarillo VOR within 15 miles. Runway 13: Turn left, climb to 5000', proceeding out R-076 Amarillo VOR within 15 miles. Runway 31: Turn right, climb to 5000' to Amarillo VOR, proceed out R-076 within 15 miles.
*Radar control will provide 1000' vertical clearance within a 3-mile radius of KGNC radio tower, 3860'—13.5 miles NE or maintain 4900'.
**Radar control will provide 1000' vertical clearance within a 3-mile radius of TV antennas, 4308' and 4298'—8.5 miles WNW or maintain 5300'.
‡Runway 03: 400-1½ authorized, except for 4-engine turbojet aircraft, with operative ALS.
‡Runway 21: 400-1¼ authorized, except for 4-engine turbojet aircraft, with operative high-intensity runway lights.

City, Amarillo; State, Tex.; Airport name, Amarillo AFB/Municipal; Elev., 3605'; Fac. Class., and Ident., Amarillo Radar; Procedure No. 1, Amdt. 3; Eff. date, 8 May 65; Sup. Amdt. No. 2; Dated, 5 Sept. 64

360	020	40	3000												
020	240	40	3500												
240	300	40	2600	30	2600	20	2600	10	2600						
300	300	40	2200	30	2200	20	2200	10	2200						
300	360	40	2000	30	2000										
360	080			30	3000										
080	100			30	2200										
100	240			30	3500										
240	020														
020	100					20	2000								
100	120					20	2200								
120	220					20	3000								
220	240					20	3500								
300	120					20	3000								
120	240							10	2000						
000	360							10	3000						
										7	2000				
														Surveillance approach	
														T-dn*	300-1	300-1	200-½
														C-dn	700-1	700-1	700-1¼
														S-dn-28	700-1	700-1	700-1
														S-dn-10	500-1	500-1	500-1
														S-dn-14	400-1	400-1	400-1
														A-dn	800-2	800-2	800-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, Runway 28: Climb straight ahead to 2000' direct to SYR RBn. Hold W of SYR RBn, 068° Inbnd, 1-minute left turns. Runway 10: Climb straight ahead to 2000' SY LOM. Hold E of SY LOM 278° Inbnd, 1-minute right turns. Runway 14: Make left-climbing turn to 2000' to SYR VOR. Hold NW of SYR VOR, 131° inbnd, 1-minute right turns.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
NOTE: Standard clearance of 1000' from 0-3 miles must be provided over: 1. 2650' antenna (49.0 miles ENE of airport); 2. 2549' antenna (10.5 miles S of airport); 3. 2037' antenna (10.0 miles SSW of airport).
CAUTION: 836' antenna (1.1 mile S of approach end of Runway 28).
*600-1 required for takeoff on Runway 14.

City, Syracuse; State, N.Y.; Airport name, Clarence E. Hancock; Elev., 421'; Fac. Class., ASR; Ident., Syracuse Radar; Procedure No. 1, Amdt. Orig.; Eff. date, 8 May 65

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on April 1, 1965.

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

[F.R. Doc. 65-3611; Filed, Apr. 30, 1965; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 12—OWNERSHIP REPORTS OF CAPITAL STOCK

Scope and Application

This amendment issued under authority of R.S. 324, et seq., as amended; 12 U.S.C. 1 et seq., and Securities Exchange Act of 1934 (15 U.S.C. 78) specifies several exemptions from the application of certain provisions of section 16 of the Securities Exchange Act of 1934. Since the amendment generally relieves restriction, notice and public procedure are found to be unnecessary and contrary to the public interest. Accordingly, this amendment will become effective upon publication.

Part 12, Chapter 1, Title 12 of the Code of Federal Regulations of the United States of America is amended by adding the following new sections:

§ 12.7 Exemption from section 16(b) of the Securities Exchange Act of certain transactions by registered investment companies.

Any transaction of purchase and sale, or sale and purchase, of any equity security of a bank shall be exempt from the operation of section 16(b), as not comprehended within the purpose of that section, if the transaction is effected by an investment company registered under the Investment Company Act of 1940 and both the purchase and sale of such security have been exempted from the provisions of section 17(a) of the Investment Company Act of 1940 by an order of the Securities and Exchange Commission entered pursuant to section 17(b) of that act.

§ 12.8 Exemption from section 16(b) of the Securities Exchange Act of certain transactions effected in connection with a distribution.

(a) Any transaction of purchase and sale, or sale and purchase, of an equity security of a bank that is effected in connection with the distribution of a substantial block of such securities shall be exempt from the provisions of section 16(b), to the extent specified in this § 12.8, as not comprehended within the purpose of section 16(b), upon the following conditions:

(1) The person effecting the transaction is engaged in the business of distributing securities and is participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;

(2) The security involved in the transactions is (i) a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the bank or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities, or (ii) a security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

(3) Other persons not within the purview of section 16(b) are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 16(b) by this § 12.8. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption that would otherwise be available under this paragraph.

(b) The exemption of a transaction pursuant to this § 12.8, with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this § 12.8.

§ 12.9 Exemption of certain securities from section 16(c) of the Securities Exchange Act.

Any equity security of a bank shall be exempt from the operation of section 16(c) to the extent necessary to render lawful under such section the execution by a broker of an order for an account in which he had no direct or indirect interest.

§ 12.10 Exemption from section 16(c) of the Securities Exchange Act of certain transactions effected in connection with a distribution.

Any equity security of a bank shall be exempt from the operation of section 16(c) to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of the bank's securities, upon the following conditions:

(a) The sale is made with respect to an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling, or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

(b) Other persons not within the purview of section 16(c) are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 16(c) by this § 12.10. The performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not, however, preclude an exemption that would otherwise be available under this § 12.10.

§ 12.11 Exemption from section 16(c) of the Securities Exchange Act of sales of securities to be acquired.

(a) Whenever any person is entitled, as an incident to his ownership of an issued equity security of a bank and without the payment of consideration, to receive another security of the bank "when issued" or, "when distributed", the security to be acquired shall be exempt from the operation of section 16(c) if

(1) The sale is made subject to the same conditions as those attaching to the right of acquisition;

(2) Such person exercises reasonable diligence to deliver such security to the purchaser promptly after his right of acquisition matures; and

(3) Such person reports the sale on the appropriate form for reporting transactions by persons subject to section 16(a).

(b) This § 12.11 shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when-issued" or "when-distributed" security, if the two transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by him pursuant to his right of acquisition.

§ 12.12 Arbitrage transactions under section 16 of the Securities Exchange Act.

It shall be unlawful for any director or principal officer of a bank to effect any foreign or domestic arbitrage transaction in any equity security of the bank unless he shall include such transaction in the statements required by section 16(a) of the Securities Exchange Act and § 12.2 and shall account to such bank for the profits arising from such transaction, as provided in section 16(b). The provisions of section 16(c) shall not apply to such arbitrage transactions. The provisions of § 12.2 and of section 16 shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than such director or principal officer of the bank issuing such security.

Dated: April 27, 1965.

[SEAL] JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 65-4603; Filed, Apr. 30, 1965; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Marshyhope Creek, Md., and Withlacoochee River, Fla.

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 is hereby amended with respect to paragraph (f)(13) to permit the Maryland State Roads Commission bridge across Marshyhope Creek at Brookview, Md., to remain in a closed position, effective 30 days after publication in the FEDERAL REGISTER, as follows:

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

* * * * *

(f) *Waterways discharging into Chesapeake Bay.* * * *

(13) Marshyhope Creek, Md.; Maryland State Roads Commission bridge at Brookview. The draw need not be opened for the passage of vessels and paragraphs (b) to (d), inclusive, of this section shall not apply to this bridge. Paragraph (c) of this section shall apply to this bridge only to the extent that the operating machinery of the draw shall be maintained in a serviceable condition.

* * * * *

[Regs., Apr. 13, 1965, 1507-32 (Marshyhope Creek, Md.)—ENGCW-ON] (sec. 5, 28 Stat. 362; 33 U.S.C. 499)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.175b is redesignated as §207.175c, § 207.175a is redesignated as § 207.175b, and a new § 207.175a is hereby prescribed, governing the use, administration and navigation of the lock at Carlson's Landing Dam across the Withlacoochee River at Carlson's Landing, Fla., effective upon completion of the structure, as follows:

§ 207.175a Carlson's Landing Dam navigation lock, Withlacoochee River, Fla.; use, administration and navigation.

(a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 7 a.m. to 12 noon, and from 1 p.m. to 7 p.m., during the period of February 15 through October 15 each year; and from 8 a.m. to 12 noon, and from 1 p.m. to 6 p.m., during the remaining months of each year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels.

(b) The owner of or agency controlling the lock shall place signs, of such size and description as may be designated by the District Engineer, U.S. Army Engineer District, Jacksonville, Fla., at each side of the lock indicating the nature of the regulations in this section.

§ 207.175b Weekley Bayou, an arm of Boggy Bayou, Fla., at Eglin Air Force Base; restricted area. [Redesignated]

§ 207.175c Ben's Lake, a tributary of Choctawhatchee Bay, Fla., at Eglin Air Force Base; restricted area. [Redesignated]

[Regs., Apr. 20, 1965, 1507-32 (Withlacoochee River, Fla.)—ENGCW-ON] (sec. 7, 40 Stat. 266; 33 U.S.C. 1)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 65-4584; Filed, Apr. 30, 1965; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER E—DEFENSE CONTRACT FINANCING

PART 163—DEFENSE CONTRACT FINANCING REGULATIONS

Miscellaneous Amendments

Section 163.43 is revised, and in § 163.79-2, the date in the clause heading is changed, as follows:

§ 163.43 Amount and maturity of guaranteed loans.

(a) Subject to the limitations of the asset formula (§ 163.42), the maximum amount of guaranteed credit in individual cases, and the maturity date of guaranteed loans or credits, are fixed to conform reasonably to the borrower's financing requirements for defense production contracts on hand at the time of application for guarantee. If additional defense production contracts are entered into after the application and before authorization of a guarantee, to such extent as to require increase in the maximum amount, or longer maturity for the requested guaranteed loan, adjustments may be made to provide for the borrower's additional financing requirements. Also, guarantee agreements for existing guaranteed loans may be amended, on submission of pertinent information and Federal Reserve Bank report to the guaranteeing agency concerned, to provide financing for defense production contracts entered into by the borrower during the term of the guaranteed loan.

(b) Also, within the limits of the applicable loan formula and ceiling amount, there is generally no objection to inclusion in the borrowing base, of assets under defense production contracts entered into after the date of the guarantee agreement. However, in exceptionally weak cases, and in the cases of guaranteed loans established for financing only one or a small number of contracts, it is the practice to require that financing of relatively substantial additional defense contracts under existing guaranteed loans be done only with the consent of the guarantor.

(c) Where guarantee agreements are amended to provide financing for contracts entered into by the borrower during the term of the guaranteed loan, a new certificate of eligibility will normally be required. It is not the policy of the Department of Defense to continue furnishing assistance in the form of guaranteed loans over an extended period of time except in cases where it is reasonably necessary to do so to obtain the required products.

§ 163.79-2 Direct labor and materials cost clause.

PROGRESS PAYMENTS (NOVEMBER 1964)

* * * * *

[Rev. 10, ASPR, Apr. 1, 1965] (sec. 2202, 70A Stat. 120; 10 U.S.C. 2202)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 65-4583; Filed, Apr. 30, 1965; 8:46 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 311—PUBLIC USE OF CERTAIN RESERVOIR AREAS

Big Bend (Lake Sharpe), Cold Brook and Elk City Reservoir Areas

The Secretary of the Army having determined that the use of the following reservoir areas by the general public for boating, swimming, bathing, fishing and other recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the reservoirs for their primary purposes, hereby prescribes rules and regulations for their public use, pursuant to the provisions of section 4 of the Flood Control Act of 1944 (76 Stat. 1195), adding reservoirs to §§ 311.1 and 311.6(b), as follows:

§ 311.1 Areas covered.

* * * * *

KANSAS

* * * * *

Elk City Reservoir Area, Elk River.

* * * * *

SOUTH DAKOTA

Big Bend Dam—Lake Sharpe, Missouri River.
Cold Brook Reservoir Area, Cold Brook.

* * * * *

§ 311.6 Hunting and fishing.

* * * * *

(b) * * *

SOUTH DAKOTA

* * * * *

Big Bend Dam—Lake Sharpe, Missouri River.
Cold Brook Reservoir Area, Cold Brook.

* * * * *

[Regs., Apr. 19, 1965, ENGCW-OM] (sec. 4, 58 Stat. 889, as amended; 16 U.S.C. 460d)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 65-4585; Filed, Apr. 30, 1965; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Special Permission No. 16500; Amdt.]

PART 141—FREIGHT SCHEDULES

Alternation of Through Rates With Aggregate of Intermediates

At a session of the Interstate Commerce Commission, Special Permission Board, held at its office in Washington, D.C., on the 23d day of April A.D. 1965.

It appearing, that by Special Permission Application No. 41124, filed by H. R. Hinsch, agent, for and in behalf of all carriers and their tariff publishing officers or agents, seeks amendment, under section 6 of the Interstate Commerce Act (49 U.S.C. sec. 6), of Special Permission No. 16500, to depart from the terms of §§ 141.4 (h) and (i) and 141.7(b) (Rules 4(h), 4(i), and 7(b) of Tariff Circular No. 20) to permit publication of the Aggregate of Intermediate Local, Joint and/or Proportional Interstate Rates as permitted by Permission No. 16500, with one or more restrictions in its application while continuing Rule 56 (or other existing aggregate rules) for application on other or excluded descriptions of traffic. A full investigation of the matters and things involved in Application No. 41124 having been made, which application is hereby referred to and made a part hereof:

And it further appearing, that the rule hereinafter authorized for publication being a relaxation of the regulations prescribed governing the construction of freight schedules, rule-making procedure under section 4(a) of the Administrative Procedure Act (5 U.S.C. sec. 1003) is deemed unnecessary:

It is ordered, That, 49 CFR Part 141 be, and the same is hereby amended by changing paragraph (a) of § 141.200 as follows:

§ 141.200 Alternation of through rates with aggregate of intermediate rates.

(a) In order to facilitate the application of rates which will be in accord with the aggregate-of-intermediates provision of the fourth section of the act, common carriers by railroad and their duly appointed tariff publishing agents may depart from the terms of §§ 141.4 (h) and (i) and 141.7(b) (Rules 4(h), 4(i), and 7(b) of Tariff Circular No. 20) for the purpose of incorporating in tariffs naming rates and charges for the transportation of property the following rule in lieu of the rule authorized in § 141.56 (Rule 56 of Tariff Circular No. 20):

If on any shipment an aggregate-of-intermediate local, joint and/or proportional interstate rates constructed via a route over which the through rate published in this tariff is applicable produces a lower charge than the through rate, such aggregate of rates will apply via all routes authorized in this tariff and the through rate has no application to any such shipment via any of those routes.

Common carriers by railroad and their duly appointed tariff publishing agents when publishing the foregoing rule may provide for its nonapplication to rates on particular descriptions of traffic, in which event, as to such rates, the rule authorized in § 141.56 may be used.

* * * * *

(Sec. 12, 24 Stat. 383, as amended, 49 U.S.C. 12, interpret or apply sec. 6, as amended, 24 Stat. 380, as amended, 49 U.S.C. 6)

It is further ordered, That this amendment shall become effective May 10, 1965.

It is further ordered, That in all other respects the terms of original Special Permission No. 16500 shall remain the same.

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

By the Commission, Special Permission Board.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-4600; Filed, Apr. 30, 1965; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1040, 1042]

[Docket Nos. AO-225-A14, AO-240-A7]

MILK IN SOUTHERN MICHIGAN AND MUSKEGON, MICH., MARKETING AREAS

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Southern Michigan and Muskegon, Mich., marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The joint hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Lansing, Mich., on November 16–20 and November 30, 1964, pursuant to notice thereof which was issued October 20, 1964 (29 F.R. 14544), and supplemental notice thereof which was issued November 2, 1964 (29 F.R. 14990).

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

1. Merger of Orders No. 40 and No. 42 and expansion of the marketing area.
2. Appropriate provisions of the consolidated order concerning:
   (a) Location differentials;
   (b) Class I price and butterfat differentials;
   (c) Pool plant requirements;
   (d) Classification of milk;
   (e) The adjusted uniform price for milk not under the base-excess plan;
   (f) Method of pooling;
   (g) Milk diverted to Southern Michigan plants from plants regulated by other Federal orders; and
   (h) Administrative and miscellaneous provisions.

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

1. *Merger of Orders No. 40 and No. 42 and expansion of the marketing area.* The Southern Michigan and the Muskegon orders should be consolidated. The marketing area of the combined orders should be expanded to cover territory in 18 additional Michigan counties, to wit., all of Alpena, Montmorency, Alcona, Oscoda, Iosco, Ogemaw, Roscommon, Missaukee, Gladwin, Osceola, Lake, Mason, Newaygo, and Oceana Counties and the unregulated parts of Arenac, Clare, Allegan, and Presque Isle Counties. The territory covered by the new order should be called the "Southern Michigan marketing area". The Muskegon order should be revoked.

The Agricultural Marketing Agreement Act specifies that orders shall regulate only the handling of agricultural commodities, or products thereof, which are in the current of interstate or foreign commerce, or which directly burden, obstruct or affect interstate or foreign commerce. Milk handling under the proposed order is in the current of, and burdens, obstructs or affects, interstate commerce in milk and milk products. Milk from farms in Indiana and Ohio is supplied to various Michigan handlers who would be regulated under the consolidated order. These handlers are in direct competition in distribution with handlers who purchase milk produced in Michigan. Handlers and cooperatives in the consolidated market either manufacture milk surplus to bottling needs or ship such milk to manufacturing plants. Some of the products manufactured from producer milk at these plants are shipped outside the State of Michigan.

Merger of orders. Merger of the Southern Michigan and Muskegon orders and expansion of the marketing area were proposed by nine cooperative associations operating in the markets. Proponents testified that the area they proposed has become so closely integrated from a marketing and distribution standpoint that its regulation under a single order now is appropriate. They also said that such a merger and expansion of the orders would more nearly encompass the current major sales territories of handlers in the market and insure uniform pricing to producers of milk distributed throughout such area in the interest of both producers and handlers. Merger of the orders was not opposed.

Southern Michigan is the larger of the two markets proposed for merger. The Southern Michigan marketing area includes most of the central and southeastern portion of the Michigan Lower Peninsula. It extends from Detroit on the east to beyond Grand Rapids and Kalamazoo on the west. Over 300 million pounds of producer milk are pooled under the order each month. The Muskegon marketing area includes territory in three counties in western Michigan. It borders the western edge of the Southern Michigan area. Muskegon and Holland, its principal cities, are both within 40 miles of Grand Rapids in the Southern Michigan area. About 10 million pounds of milk are pooled under the Muskegon order each month.

A close sales relationship has developed between these adjacent markets. The intermarket competition developed as a byproduct of plant expansion and improvements in milk transportation. Handlers in both markets in recent years have increased the capacity of their plants to reduce unit processing costs and to obtain higher returns through increased volume. An enlargement of distribution areas accompanied the increase in plant size. Competition was encouraged by the similar health requirements in the two-market area.

With the expansion of distribution areas, a substantial number of routes originating in each of the present marketing areas now extend into the other. Handlers from several cities in the western portion of the Southern Michigan marketing area have entered the Muskegon market. Grand Rapids handlers, for example, have established regular routes in both Muskegon and Holland. Southern Michigan handlers from Kalamazoo and Carson City have acquired milk routes in Holland. Although in lesser volumes, Muskegon handlers likewise have acquired business in the Southern Michigan marketing area. Most of their sales are in the portion of the Southern Michigan area closest to Muskegon, but some of their routes extend as far east as Greenville, Mich., in Montcalm County.

Under these conditions of close competition, packaged milk sales accounts shift between these markets. Shifts of this type can cause sharp movements in producer blend prices, particularly in the Muskegon market. When large accounts change hands across market lines, Class I use and blend prices move up in one market and down in the other even though Class I use in total is not changed. This type of transfer creates no serious problem in the present Southern Michigan market because of its size. In Muskegon, however, where Class I use is about 6 million pounds, or only 3 percent of the Southern Michigan total, any substantial loss of large accounts, such as supermarkets, for example, can cause significant monthly blend price changes.

The intensity of intermarket competition has increased in recent months. Southern Michigan handlers in particular have increased the proportion of their business in the Muskegon marketing area. The inroads made by the Southern Michigan handlers have reduced

blend prices in Muskegon. Should these acquisitions continue, a major portion of the Muskegon Class I sales would be lost to Muskegon producers. If this happens, Muskegon producer prices can be expected to be subject to variability and frequent readjustment as the Muskegon market attempts to equilibrate with the producer prices of the Southern Michigan market. Shifts of this type sometimes take a considerable amount of time. During the adjustment period the incomes of Muskegon producers would be significantly affected making it difficult for them to operate efficiently.

The overlap of distribution and supply routes has progressed to the point that a separate Muskegon market for producers no longer can be distinguished. In this connection there is strong competition between Southern Michigan and Muskegon handlers for supplies of milk. Handlers in the two markets buy their milk from overlapping milksheds. In Ottawa County, for example, 237 producers sell to Southern Michigan handlers and 185 sell to Muskegon handlers. The relationship is similar in Oceana County. There are 54 producers in that county who ship to Southern Michigan handlers and 40 producers who ship to Muskegon handlers. The Muskegon market has become, in effect, an integral part of the larger Southern Michigan area.

To eliminate these problems the Muskegon order should be merged with Southern Michigan under a marketwide pool. By providing proportionate sharing among all producers of total Class I sales in the market, the merger will stabilize prices and eliminate much of the present price uncertainty connected with shifts of sales accounts back and forth between the markets. Under a merged order there would be no decline in producer incomes attributable to the effects of intermarket competition at the resale level.

As a corollary matter in accomplishing an order merger efficiently and equitably, the assets in the administrative funds of both orders should be consolidated. All currently regulated handlers who contributed to the administrative funds of the separate orders will continue to be regulated under the merged order. Since no handlers would fall from regulation and the liabilities of each of the present funds would be paid from the consolidated fund, it is equitable to employ accumulated monies to defray such liabilities and to carry over any minor balances to be used for administrative costs of the merged order.

Virtually all producers who contributed to the market service funds of the present orders also will continue to supply the expanded market. This makes consolidation of the marketing service funds appropriate since contributing producers would continue to receive similar market services for accumulated monies remaining in the market service funds.

Similarly, merger of the producer-settlement fund balances is warranted because most of the producers for the new market currently supply one or the other market. Producers from the present markets will make up more than 99 percent of the total. Nearly all the money in the separate funds therefore will be reflected in the blend prices of the producers whose money makes up the fund reserves. Under these circumstances, there would be little object in distributing the producer-settlement fund reserves to producers under the separate orders and again accumulating the required reserve for the consolidated order. This would increase administrative expense and would add virtually nothing to returns of producers under the present orders.

Interest should be charged under the consolidated order on overdue payments to and from the administrative, marketing service and producer-settlement funds. Both of the present orders include this requirement. It encourages the prompt payments required for effective operation of the order. Also, following the effective date of the merged order, accrued interest should be payable under the consolidated order on any overdue obligations incurred and still outstanding under the present Southern Michigan and Muskegon orders. This will insure payment of all obligations required by the now separate orders and enhance orderly transition to the merged order.

Basically, the provisions of the present Southern Michigan order will be the provisions of the consolidated order. This was contemplated by proponents of the merger. Most of the provisions of Order No. 40 have worked satisfactorily in the dominant Southern Michigan market which currently regulates about 95 percent of the milk to be covered by the new order. Further, many of the provisions in the present Muskegon order are similar to those in the present Southern Michigan order. In general, Order No. 40 provisions therefore should work satisfactorily as the basic provisions of the consolidated order. Certain of the Order No. 40 provisions are expressly modified herein, of course, in accordance with proposals considered at the hearing. These modifications are discussed in the findings and conclusions on the other material issues of the hearing.

Marketing area expansion. The marketing area of the consolidated order should include also the counties of Alpena, Montmorency, Alcona, Oscoda, Iosco, Ogemaw, Roscommon, Missaukee, Gladwin, Osceola, Lake, Mason, Newaygo, and Oceana in Michigan. Further, the portions of Arenac, Clare, and Allegan Counties which are not now included under either the Muskegon or Southern Michigan order and the part of Presque Isle County which is not within the Upstate Michigan order should be added to the marketing area. Such territory has become a primary distribution area for handlers regulated by the present orders.

Most of this new territory lies between the marketing areas of Orders No. 40 and No. 42 and the Upstate Michigan (Order No. 43) marketing area. It includes all unregulated territory in a band of 16 counties which begins at midstate on the west and extends generally northeastward across the entire Lower Peninsula of Michigan. Southern Michigan and Muskegon regulated handlers have important distribution outlets throughout this entire area. From their plants in Flint, Bay City, Saginaw, Lansing, Carson City, Grand Rapids, and Muskegon, they sell milk in virtually every sizable community in these counties.

Nearly two-thirds of the milk sold throughout the 16 counties is distributed by Southern Michigan and Muskegon handlers. Including the above area in the marketing area would bring under full regulation as pool handlers six known distributors who engage primarily in the sale of milk in fluid form but who are not now under any order. Such distributors referred to in the record are located in Scottville (Mason County), Ludington (Mason County), Lake City (Missaukee County), Marion (Osceola County), Reed City (Osceola County), and Tawas City (Iosco County), Mich. There was no opposition by any of the latter distributors or by any other persons to adding such counties to the marketing area.

At present no supervised, classified pricing plan prevails in any of the above areas. Most of the unregulated handlers located in the counties maintain relatively high Class I use at their plants and commonly pay a flat price for their milk regardless of utilization. This practice provides them opportunity to buy milk for sale there in fluid form at prices considerably below the minimum Class I prices required to be paid by regulated handlers. For example, an unregulated handler from Scottville, Mich., purchases milk without regard to utilization at a price equal to the blend price received by Muskegon area producers. Farmers selling milk to this handler do not consistently supply his full plant needs, however, and supplemental milk is bought from the nearby Muskegon market. The proportion of his dairy farmer supply utilized in Class I regularly exceeds that of the Muskegon market by a considerable margin. Payment on the basis of the Muskegon area blend price (which for the first 9 months of 1964 reflected an average Class I use of 60 percent of producer receipts) provided a significantly lower price for this distributor as compared to regulated handlers who are required to pay not less than minimum order Class I prices.

The marketing area should be extended to cover the above-mentioned counties in order to assure regulated handlers that as to these areas of distribution currently unregulated competitors will not be afforded significant price advantage on milk for fluid distribution there. There was general support by both handlers and producer associations in the Southern Michigan and Muskegon markets for inclusion of the above counties in the marketing area.

Newaygo County is located south of the above group of counties. It borders Muskegon and Kent Counties in which are located Muskegon and Grand Rapids—major cities in the present marketing areas. Newaygo County thus is adjacent to other important sales territories of regulated handlers. Moreover, Muskegon, Grand Rapids, and Lansing regulated handlers distribute 65 percent of all milk sold within this county.

Producers who supply the Newaygo County unregulated distributor testified in opposition to the inclusion of Newaygo County on the basis that such distribu-

tor pays for milk on a classified price basis. There is no assurance at present, however, that all fluid milk sold from his plant is paid for at a price equivalent to the minimum Class I price required to be paid by regulated handlers selling in the county. Full regulation is required to place this unregulated distributor on the same price and accounting basis as his regulated competitors.

In Allegan County, which is located south of Muskegon, an Order No. 40 handler from Kalamazoo, Mich., has important distribution. Also, two Order No. 40 handlers and an Order No. 42 handler have plants located in this county. The most populous portion of the county and a majority of the milk sold in the county already are under regulation. The record indicates the possibility that there may be one unregulated handler distributing in the county. There was no opposition to including the remainder of the county in the marketing area.

Territory occupied by local, state, or Federal reservations, installations, or institutions geographically located within the defined marketing area should be part of the area to be regulated. Waterfront facilities and craft moored thereat which are within such area also should be covered. Such government facilities and waterfront locations on Lake Erie and Lake Michigan are important sales outlets for regulated handlers. They should be included in the marketing area in order that regulated handlers will not be forced to compete at a disadvantage with unregulated distributors for such business. The order should specify clearly that all premises within such facilities are to be considered as part of the marketing area and that all handlers distributing there are subject to the terms of the order which are applicable to their operations.

All producer milk received at regulated plants must be made subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "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 the 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. Unless all milk of such a handler were 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 could 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 payment 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.

Class I milk may be sold within the regulated marketing area from certain plants not under any Federal order. One source of such milk is a plant located outside the marketing area which distributes in the marketing area less than 600 pounds of milk per day. Such a plant is made exempt from regulation because it is not considered to be a significant competitive factor in this large market. Another source of milk not subject to full regulation is a plant which fails to qualify as a pool distributing plant because its distribution of fluid milk products on routes is less than required for pooling status. However, significant amounts of milk could be distributed in the marketing area from this latter source which would have a disruptive effect on marketing unless some method is used to integrate it into the regulatory plan. 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 of the latter type would not jeopardize orderly marketing conditions within the regulated marketing area under present circumstances. Official notice is taken of the June 19, 1964, decision (29 F.R. 9002) supporting amendments to several orders, including the Southern Michigan and Muskegon orders, which deal with the treatment of unregulated milk in the regulatory scheme.

Under the method of partial regulation continued in the consolidated order, the operator of a partially regulated distributing plant is afforded the options of: (1) Paying an amount equal to the difference between the Class I price and the uniform price on 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 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 is 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 pricing on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales in the marketing area of milk not fully regulated (pooled) from adversely affecting the operation of the order and the fully regulated milk.

2. (a) *Location differentials.* The location adjustment rates applicable to Class I and producer prices under the order should be modified to reflect more accurately the location values of milk delivered to various points in the Southern Michigan marketing area.

Price zones. Historically, Detroit distributing plants relied for a major proportion of their milk supplies on milk assembled at and transshipped from country receiving stations and supply plants located beyond a 50-mile radius from the city. Milk was delivered to the country plant locations in cans. In recent years there has been a general conversion by producers throughout the milkshed to the bulk tank method of delivery and such method now is dominant in the market. Approximately 85 percent of the producer milk is being shipped from farm to plant in this way. Virtually all distributing plants outside Detroit and its environs are fully supplied directly from producers' farms by the bulk tank method. This is particularly the case in cities such as Flint, Bay City, Saginaw, Lansing, Kalamazoo, Grand Rapids, and Muskegon.

The Metropolitan Detroit area includes approximately 50 percent of the population of the marketing area and requires about 100 million pounds of Class I milk per month (one-third of the producer milk in the market). The fact that bulk tank routes may extend as far as 100 miles from the plant, as compared to a 50-mile maximum distance of direct-delivery can routes a few years ago, has resulted in a fourfold increase in the direct-shipment procurement area available to Detroit distributing plants. Today approximately 15 percent of the producers' farms are located within 50 miles of Detroit while about 60 percent of the farms are within 100 miles of Detroit. Thus, on a direct-shipment basis there are within 100 miles of the city supplies adequate to Detroit's fluid needs. Although nearly one-third of the Detroit fluid requirements still are furnished through country receiving plant assembly, bulk tank handling has made it practicable to supply all distributing plants in the Detroit area on a direct farm-to-plant basis.

The location adjustment rate structure under the present Southern Michigan order was adopted in February 1960, based upon evidence adduced at a hearing held in January 1959. With the nearly complete conversion to bulk tanks since that time and an improved highway network in southern Michigan with superhighways connecting most of the principal urban centers with Detroit, there has been a great increase in efficiency in handling. Because of the resultant reduced costs, the location values of milk in various parts of the milkshed have been altered significantly since 1959.

The problem of location pricing at hand is essentially one of recognizing in the minimum price structure the new reduced cost patterns for moving raw milk to various plant outlets and insuring an adequate supply to each of the several consuming centers in the marketing area which in several instances are located in principal producing counties of southern Michigan. Concerning the Metropolitan Detroit area, the present minimum price structure does not provide sufficient incentive for bulk tank producers within direct-delivery range of the city to ship directly to Detroit since they may realize a higher net return for delivering their milk to Zone I distributing plants outlying from Detroit or to country supply plants which are generally closer to their farms. This is the result primarily of inadequate compensation to the direct-delivery pro-

ducer relative to producers at outlying plants to offset higher hauling costs to Detroit caused by the lack of adequate return to direct-delivery producers on their excess milk (over base), the longer distance traveled, and the increased time consumed by haulers under congested traffic conditions.

Because Detroit is by far the largest of the consuming centers in the marketing area and must obtain the largest volumes and reach the farthest distances for milk as compared to other marketing area cities, it is in important competition with some of the other cities for supplies. Most other cities of the marketing area need reach out a radius of only 10–25 miles in order to find necessary supplies. These secondary consuming centers compete with each other for supplies and their hauling rates are very similar. Also, the hauling rates to the latter for farm-to-plant delivery generally are lower than for farms in similar vicinity shipping to Detroit. There is a tendency, however, for Detroit to draw milk in competition with such markets as Jackson and Lansing and for the latter in turn to compete with cities to their west, such as Kalamazoo, Grand Rapids, and Muskegon. A reasonable schedule of location adjustments should recognize this competition in supply procurement and, in the interest of marketing efficiency, encourage the movement of producer milk needed at fluid market outlets at the lowest possible cost to producers.

Producer associations in the market submitted a variety of proposals on location pricing. Several associations proposed area zoning which would modify the area zone structure in the present Southern Michigan order by employing a plus 3-cent "direct-delivery" defferential on producer milk delivered from farms to Metropolitan Detroit plants and reducing the range of minus adjustments applicable on such milk delivered to plants in zones outside the present Zone I (zero differential) from a range of 7–20 cents to a range of 3–15 cents, generally in proportion to distance from Zone I. Zone boundaries would be modified to some extent. Another association proposed a somewhat similar price structure with the same plus direct-delivery differential but with lesser differentials applicable in outlying zones.

Another producer proposal would apply a minus differential of 5 cents at all supply plants wherever located, or, contrariwise, a direct-delivery differential of 5 cents at all distributing plants. One association proposed that the consolidated order provide only a plus 5-cent direct-delivery differential at Detroit plants with no minus adjustments at other locations.

Handler proposals varied from one suggesting complete elimination of location differentials to retention of the present zone structure. Several handlers suggested that either no direct-delivery differential should apply at Detroit plants or a differential should apply only on Class I or base milk rather than on all deliveries of the producer. One handler proposed adoption of location adjustments strictly on mileage zoning (in contrast to area zoning), as employed in the Detroit order before the marketing area was enlarged in February 1960.

Adjustments to producer prices for location should reflect the relative value of milk delivered to city distributing plants as compared to milk delivered to supply plants and receiving stations.

Historically, location adjustment rates in the market where based on the cost of moving milk from receiving (assembly) plants outlying from Detroit distributing plants. With bulk tanks the direct-delivery area has expanded so that all distributing plants in the market are now within range of an adequate supply by direct-delivery. Direct-delivery by bulk tank has become the most prevalent method of delivery in the market and represents the lowest cost method of getting milk from the farm to the population centers in the market. With the development of bulk tank handling the need for country receiving stations is diminishing. In general, the variation in bulk tank hauling rates based on distance traveled is about 1 cent per 10 miles radius from the plant. Typical hauling rates on routes up to a 20-mile radius are 20 cents, up to a 75-mile radius 25 cents, and up to a 120-mile radius 30 cents.

Under the past method of supplying Detroit's needs for whole milk; i.e., the receipt of milk at country receiving stations and its transshipment to city bottling plants, the order specified certain rates for location of plant as an allowance for movement of the milk from the country plant to the city. These rates were (and still are) applicable to Class I and base prices. However, the handler of the city distributing plant purchasing from a country plant operated by a cooperative customarily has paid, over and above the Class I price at the country receiving plant location, a plant handling charge and any transportation charge applied in excess of the location adjustment allowed under the order. At the time of the hearing the additional transportation charge most commonly imposed by cooperative sellers was 5 cents per hundredweight and the country plant handling charge was 14 cents per hundredweight. In certain other instances the proprietary handler incurs the equivalent of such cost of country receiving by operating his own receiving station.

The value to a handler of direct-delivered milk is related to the lowest cost of an alternative supply which meets his requirements. When abundant supplies are available from a relatively large number of producers who are delivering to nearby pool plants and being paid the order minimum prices, only a small increment is needed to induce an adequate supply of direct-delivered milk at a given location. If the best alternative source is direct receipts from producers in a more distant area, direct delivery from the nearby producers is worth the price which must be paid in the more distant territory plus the additional cost of transporting milk from that distant territory. If the best alternative supply is milk from a country supply plant, the worth of direct-delivery milk will be related to the class price at that plant plus the charge for country plant handling and hauling.

The extra value of milk received at the city location as compared to its value when received at the country assembly point has been well established in the past by the prices and charges necessary to induce movement of the needed supplies to Detroit. This value relationship has been altered, however, by the fact of the relatively new and lower cost bulk tank delivery method, but a higher value of milk delivered at Detroit still prevails. Even with bulk tank handling the Class I price level at Detroit must be sufficiently above the levels at outlying plant locations in the milkshed to induce the delivery of whole milk to Detroit for its principal uses there.

Bulk tank handling in this area has progressed to the point that the most likely alternative source to replace nearby milk for Detroit is direct receipts from producers in a more distant territory. Therefore, the relative location values of producer milk under today's conditions are reflected in the differences in hauling cost to deliver to a Detroit plant as compared to delivery to an outlying plant. In order to encourage the delivery of milk to Detroit (and to the other consuming centers) by the most efficient means, these differences in cost should be reflected in the minimum price structure to producers. As part of a modified location pricing plan, a "direct-delivery differential", or plus zone adjustment, on all milk of the producer direct-delivered from farms to plants located in and near Metropolitan Detroit, as proposed by several producer groups, therefore should be adopted.

While the focal point of the location price structure in the marketing area is Detroit, there are, however, several important secondary markets or population centers within the marketing area at varying distances from Detroit. The location price structure therefore should be such that adequate supplies of milk will be attracted to these cities as well as to Detroit. To accomplish these purposes a zone price structure similar to the one presently employed in the Southern Michigan order, but appropriately modified to fit today's marketing conditions, will best reflect the location utility of milk at various other points in the marketing area and milkshed.

A direct-delivery differential of 4 cents per hundredweight should be applicable to all milk received from farms at plants located in the townships of Royal Oak and Southfield of Oakland County and in those portions of Wayne County other than the townships of Northville, Plymouth, Canton, Van Buren, Sumpter, Livonia, Nankin, Romulus, Huron, Taylor, Brownstown, Monguagon, and Grosse Isle. This area represents the most densely populated urban area of Metropolitan Detroit.

Under the present Southern Michigan order there is no price differential between Detroit and the outlying cities of Ann Arbor, Pontiac, Port Huron, Flint, Saginaw, and Bay City, which together constitute the population centers of present Zone I which are outlying from Metropolitan Detroit. A 4-cent per hundredweight differential at Metropolitan Detroit plant locations relative to the remainder of Zone I as defined in this

decision (which varies slightly from present Zone I) on milk direct-delivered to plants so located should provide an adequate return to producers to offset the relatively high cost of hauling to plants in this congested portion of the marketing area.

Some producer associations proposed that the direct-delivery zone price be 3 cents per hundredweight while others proposed that it be as much as 5 cents per hundredweight. Proponents of the 3-cent differential stated that it takes at least 3 cents per hundredweight additional to induce haulers to negotiate the congested traffic condition in Detroit as compared to hauling the milk to plants in the fringe area or suburbs of the city. One witness stated that hauling rates into Detroit from the "thumb" area to the north average about 5 cents greater than hauling rates on milk from the same area delivered to Pontiac (25 miles north of the City Hall in Detroit). Other witnesses stated that hauling rates on some routes originating about 60 miles west of Detroit were 5 cents greater into Detroit than to plants in the vicinity of the farms.

Ideally, the amount of the differential should reflect the added direct-delivery cost of transporting milk to Detroit plants compared to delivery to other Zone I plants and various supply plants. Since these plants are at varying distances from near-in Detroit plants, it is not possible to establish one differential which precisely reflects the additional hauling costs to such plants from each other location. However, the amount of the differential between Detroit and nearby cities should not be significantly greater than the added hauling cost involved in order that plants in these nearby cities may be assured of supplies. In view of all the evidence a differential of 4 cents should be adequate between Detroit and such other plants.

As a "direct-delivery" differential, the 4-cent differential at Detroit plants should be paid by the handler directly to the producer (rather than to all producers through the producer-settlement fund) for all milk delivered to such plants.[1] Such payment will tend to reflect the location utility of all milk shipped by the individual producer—not just his base milk. The present Southern Michigan order does not reflect a location adjustment in the price for "excess milk". In the latter circumstance the added hauling cost paid by a producer on delivery of his milk to a Detroit plant, rather than to the plant closest to his farm, results in a reduction in his net return for milk in excess of base. Thus, the new provision for a direct-delivery differential payable directly to the producer is designed to offset, in large part, the extra cost of shipping such milk to the Detroit location as compared to shipping the same milk to a plant located nearer his farm. The encouragement to the producer to deliver all his milk by this means for bottling use will benefit all producers through the overall savings in transportation made possible.

It was objected that in some instances such application will mean that the direct-delivery differential will be paid on milk which the handler actually utilizes in Class II. It is concluded, however, that the differential should be payable on all milk so received by all plants in the designated area regardless of the type of operations conducted in the plant. All the milk delivered by producers to the designated area is available for the fluid market. Moreover, any milk utilized for other than fluid purposes, as well as for fluid requirements, in an area of highly deficit production, such as the city of Detroit and its environs, requires delivery from more distant production areas. Since milk customarily is manufactured into Class II products by producer organizations in outlying areas in the milkshed, the producer should not be placed in the position of taking a return on any part of his milk delivered to the city location lower than he would receive at a country supply plant, taking into account the lower cost of hauling to the latter plant. Thus, if the handler requires delivery directly to Detroit, it is not unreasonable to require reimbursement to the producer for the extra cost of such delivery relative to transporting to the country plant location whether a Class I or Class II use is intended at the city location.

The application of the direct-delivery differential in this manner may be compared with the cost of milk to the handler for Class II use at the city under the interplant delivery system. Prior to the use of bulk tanks Detroit handlers obtained most of their milk supplies through country supply plants and some still do. Except for an 8 percent allowance over actual Class I needs (to cover day-to-day sales variations), such a handler receives no location credit under the order on transfers of milk from supply plants for Class II use. Such pricing provisions recognize that the transportation charges on the finished dairy products, such as butter or nonfat dry milk, are minimal as compared with the hauling cost on whole milk and that milk can be readily processed into Class II manufactured dairy products at country locations. Handlers desiring whole milk for Class II processing in the city pay the transportation cost and plant handling charges on any whole milk transhipped to Detroit from country plants for such uses. Consequently, the handler who receives direct-delivered milk has the alternative of paying the extra charges incidental to purchasing through a country plant to obtain whole milk for such use at the city.

It is concluded that adoption of the direct-delivery differential will promote orderly marketing by assisting to induce an adequate supply at near-in Detroit plants by efficient means of handling, encouraging a further shift from country receiving to the more economical direct shipment from farms to city plants, insuring that the potential savings from such handling method will be returned to producers, better equalizing handlers' costs, and compensating the direct-delivery producer for the added cost he incurs in delivering directly to the city location.

The location adjustment structure outside the present Zone I (zero differential) should be revised in recognition of the general reduction in transportation costs resulting from bulk tank delivery and to reflect net differences in cost associated with distance relative to delivery to Zone I. A precise description of each of the various price zones, which vary to some extent from their counterparts under the present Southern Michigan order, is set forth in § 1040.54 of the order included in this decision. For purposes of the discussion below, however, references of a more general nature are sufficient.

In view of the plus 4-cent direct-delivery differential for delivery to Detroit, the present differential for Zone II of minus 7 cents should be changed to minus 3 cents. Taking the direct-delivery differential into account, this results in the same location price difference between plants in this zone and Detroit plants as now prevails. It also will result in a 3-cent difference between Zone II and the relatively nearby plants in Zone I outside the Metropolitan Detroit area.

Part of the present Zone II includes the territory lying approximately 50–90 miles west of Detroit and encompasses the territory surrounding the cities of Jackson (75 miles from Detroit) and Lansing (90 miles from Detroit) as well as the pool supply (manufacturing) plants at Adrian (70 miles) and Mason (80 miles). The remainder of the present Zone II includes the lower portion of Lapeer County with a supply plant located at Imlay City. This plant is in a sparsely populated area 30 miles east of the city of Flint (Zone I) and 50 miles north of Detroit.

This portion of Zone II should be extended northward about 20 miles into Tuscola and Sanilac Counties to include the lower portion of the "thumb" area of the State which also is a sparsely populated, heavy milk production area bounded by Lake Huron on the north and east sides; by the densely populated Flint-Saginaw-Bay City corridor (Zone I) on the west side; and by Pontiac and Port Huron (Zone I) to the south. The present location adjustment at the "thumb" area receiving stations located at Brown City (69 miles from Detroit) and Peck (72 miles from Detroit) is 10 cents. There were two different zone proposals made by cooperatives which would modify the differential at these plant locations relative to Detroit. Both proposals placed this area in the same zone as the remainder of the "thumb" area which extends about 50 miles farther to the north. However, since both these plants are about 70 miles from Detroit, it would cost about 7 cents extra for a producer to deliver his milk directly to Detroit.

Zone II thus will include the territory west of Detroit lying generally within Lenawee, Jackson, Ingham, Livingston, and Washtenaw (western portion only) Counties and the territory north of Detroit lying within Lapeer, St. Clair

[1] As later discussed, a producer's milk is considered as delivered to a given zone plant location for the entire month if at least 65 percent of the monthly deliveries are made there.

(northern portion), Tuscola (southern portion), and Sanilac (southern portion) Counties. Zone II is surplus production territory where Detroit and other Zone I handlers can obtain a major proportion of their fluid milk requirements. It should be noted, however, that Zones I and II in combination are deficit in production relative to the total fluid requirements of such zones. These two zones include about 75 percent of the population of the marketing area but only 40 percent of the producer milk. Class I milk requirements for these two zones are about 145 million pounds per month and production within the two zones is about 130 million pounds per month. Some additional milk therefore must be attracted to the cities in these zones to meet their Class I requirements.

Extension of Zone II further into the Michigan "thumb" area to include that portion within approximately 80 miles of Detroit at a minus 3-cent differential, together with the 4-cent direct-delivery differential, will reflect more accurately the respective costs of moving milk to Detroit plants and to plants in the nearby Zone I cities of Flint and Port Huron relative to plants in such Zone II.

An additional zone designated Zone III to include the remaining territory within approximately 50 miles of the several cities in Zone I should be provided in the order with a minus 5-cent location adjustment. This zone would include the remainder of the "thumb" area which is mainly east of Saginaw and Bay City (Huron County and the northern portion of Tuscola and Sanilac Counties). It also would include the area extending about 50 miles north and west of Bay City, Saginaw, and Flint. It includes generally the counties of Arenac, Gladwin, Midland, Isabella, Gratiot, Clinton, Shiawassee, and portions of Bay, Saginaw, Montcalm, and Ionia. The remaining portion of this zone would extend about 25 miles west beyond Zone II in the counties of Eaton, Calhoun (eastern portion), Branch (eastern portion), and Hillsdale.

Further described, Zone III includes sparsely populated heavy production areas within direct-delivery range of Zone I plants. About 5 percent of the population and 25 percent of the production in the market is within Zone III. Zones I, II, and III together comprise 81 percent of the population in the marketing area while 65 percent of the total market supply is produced within this combined territory. It is estimated, however, that while about 155 million pounds of milk per month are needed for Class I use within this three-zone area, about 215 million pounds of milk per month are produced therein.

A 5-cent differential in this zone will reflect closely the additional cost to a producer to have this milk hauled to a plant in Zone I compared to a plant within this territory. This will assure that the necessary additional supplies over those available in Zones I and II are attracted to the densely populated Zone I area as needed.

Zones I, II, and III together encompass all Southern Michigan territory generally within a radius of about 120 miles of Detroit. Although this area has less production relative to fluid needs as compared to the remainder of the market, there nevertheless is more than an adequate supply of milk for fluid uses within such three zones. The location differential structure in the remainder of the market therefore should be formulated so as not to encourage milk to be attracted to Zones I, II, and III which is unneeded there. Such a price structure will tend to maximize net returns to producers in the market by not encouraging the employment of unneeded milk hauling facilities. Nevertheless, as in other zones, location differentials in the remaining surplus production area should be kept in practical relationship to the cost of hauling to the deficit area (Zone I). Milk in production areas such as the western and northern portions of the Lower Peninsula, where milk produced exceeds local fluid market requirements, has a value in Class I closely related to the price in the nearest area where the milk may be put to fluid use less the cost of transporting milk to such area.

A principal change needed in the present location adjustment structure is a reduction in the amount of minus adjustment applicable at plants on the western side of the state, i.e., plants in and around the cities of Grand Rapids, Muskegon, Holland, Kalamazoo, and Battle Creek. These cities and their neighboring territory in the counties of Muskegon, Ottawa, Kent, Oceana, Newaygo, Mecosta, Allegan, Barry, Van Buren, Kalamazoo, Berrien, Cass, St. Joseph, and the western portions of Branch, Calhoun, Ionia, and Montcalm Counties have about 17 percent of the population of the market and 24 percent of the available supply of producer milk.

The cities in the western side of the State now are connected to the cities to the east by superhighways, making it relatively easy and inexpensive to move milk from this area towards markets in central and eastern parts of the State. However, under the present Southern Michigan order the area west of Lansing and Jackson is divided into three zones, where prices are 5, 8, and 13 cents, respectively, lower than the level applicable at Lansing and Jackson plants. Such differentials have tended to encourage some producers under the order to seek markets to the east in other location zones where the higher zone prices more than offset the extra hauling cost.

The zoning proposals of the several cooperatives called for one western zone encompassing all the cities on the western side of the State with a minus location differential 3 to 4 cents greater than the amount applicable at Lansing and Jackson. In this connection they stated that in February 1963 the associations began paying producers under their premium price plan on the basis of a location adjustment schedule different from the one under the present Southern Michigan order for the purpose of discouraging the movement of milk out of the lower priced western zone into the higher priced zones since the milk was not needed in the latter zones.

It is appropriate to adjust prices in the western cities relative to the central and eastern cities so as to reflect as nearly as possible current differences in direct-delivery hauling rates between zones. To accomplish this the western portion of the market should be divided into two price zones. The cities of Battle Creek, Kalamazoo, Grand Rapids, and the adjacent areas should be in one zone to be designated Zone IV. The cities of Holland, Muskegon, and the western tier of counties should be in the other zone—Zone V. The differential in Zone IV should be minus 7 cents (or 4 cents under the price at Lansing and Jackson). A 4-cent difference closely reflects the additional direct-delivery cost of shipping milk to Jackson from farms located in the vicinity of Battle Creek, which is about 40 miles west of Jackson. Similarly, it is about 40 miles between Lansing and the pool manufacturing plant at Sarinac, another alternative outlet for milk from the Grand Rapids area.

Kalamazoo and Grand Rapids are only 20 miles west of Battle Creek and Sarinac, respectively. Any differential in prices between these respective locations would tend to encourage producers to ship their milk east of these cities, particularly to the manufacturing plant in Sarinac. A 2-cent higher price at Kalamazoo relative to the tier of counties to the west will tend to insure supplies to this city relative to the pool manufacturing plant located in Allegan County which also represents a ready alternative outlet for those milk producers west of the city. To assure that adequate supplies will be delivered to these cities at minimum transportation cost they should be in the 7-cent differential zone. Specifically, this Zone IV should include the counties of Mecosta, Kent, Barry, Kalamazoo, St. Joseph, and the western portion of Montcalm, Ionia, Calhoun, and Branch Counties.

The differential in the western tier of counties (Zone V) should be minus 9 cents (making the price 2 cents below that at Grand Rapids and Kalamazoo). The cities of Holland and Muskegon are located in this area on the edge of Lake Michigan and are about 30 and 40 miles, respectively, from Grand Rapids. Since these cities are located next to the lake on their western side, their milk supplies must be procured generally to the east toward the Grand Rapids procurement area. A differenial in excess of 2 cents below the price at Grand Rapids would tend to encourage producers in the western tier of counties near Muskegon and Holland to ship their milk to Grand Rapids. A 2-cent differential, however, should not tend to encourage producers in the western-most portion of these counties to ship to Grand Rapids. In addition, Muskegon and Holland are located somewhat north and south, respectively, of Grand Rapids and thereby would be able to attract supplies from such directions in competition with a 2-cent higher price at Grand Rapids.

If the western tier of counties were in the same price zone as Grand Rapids and Kalamazoo, there would be no incentive for producers located there to ship their milk to these cities as the manufacturing plants located in Allegan and Ottawa Counties are closer to their farms. On the other hand, if the prices at Grand

Rapids and Kalamazoo were fixed more than 4 cents lower than the price in the eastern markets of Lansing and Jackson, there would be a tendency for producers located on the eastern edge of these cities to ship their milk eastward. These two cities, in turn, would be forced to rely on supplies located to the west. It is concluded that the price structure provided herein will tend to attract adequate supplies to these western Michigan cities as well as reflect the location utility of milk in the area in relation to the Detroit level.

In their zoning proposals producer groups placed Berrien County (in the southwestern corner of the state) in a separate zone with a differential of 4 to 6 cents lower than the price at Kalamazoo. This county lies 40–60 miles west of Kalamazoo and is bordered on the west by Lake Michigan. Thus, plants in this area must procure supplies to the east toward Kalamazoo in Cass, Van Buren, and Allegan Counties and, accordingly, must pay producers a price competitive with what they would receive by shipping to Kalamazoo. A price in this county, 2 cents less than at Kalamazoo, should attract needed supplies from the western portion of the lakeside counties while a greater differential would tend to encourage such producers to ship to Kalamazoo.

The western tier of counties from Muskegon on south (Muskegon, Ottawa, Allegan, Van Buren, Cass, Berrien) therefore should be in the minus 9-cent zone.

The remainder of the Lower Peninsula (all territory lying north of the aforementioned zones) should be divided into three zones with differentials which closely reflect the additional direct-ship hauling costs therefrom to the nearest cities in Zone I as compared with hauling costs to local plants within such zones. As previously discussed, this additional hauling cost is about 1 cent per 10 miles.

The first of these three zones should be an extension of Zone V (9 cents) on the west side of the state and continue northeastward across the state above Zones IV and III. Specifically, this would extend Zone V to include Newaygo, Lake, Osceola, Clare, Missaukee, Roscommon, Ogemaw, and Iosco Counties. The only presently regulated plant in this area is a pool manufacturing plant at Evart in Osceola County which is about 85 miles northwest of Saginaw and Bay City (Zone I). It is expected, however, that four bottling plants within this group of counties will become regulated by the inclusion of this territory in the marketing area. A minus 9-cent differential will reflect the location utility of milk at all such plants in this zone relative to prices at principal cities in the market.

The next zone (Zone VI) should include the counties of Alcona, Oscoda, Crawford, Kalkaska, Grand Traverse, Wexford, Manistee, Mason, and Oceana. This tier of counties (next to Zone V) is about 30 miles wide. A minus 12-cent differential is appropriate for this zone. There are two plants in Mason County which will become regulated by expansion of the marketing area. A 12-cent differential will provide an appropriate price level at these plants in relation to Zone V plants at Evart and Muskegon.

The remaining Lower Peninsula counties of Alpena, Montmorency, Presque Isle, Cheboygan, Otsego, Emmet, Charlevoix, Antrim, Leelanau, and Benzie should be in a minus 15-cent zone (Zone VII). This would reflect the location utility of milk at plants in this area relative to the zero zone (Bay City, the northernmost city in the zero zone, is about 150 miles south of Zone VII). The only pool plants in Zone VII are located at East Jordan and Hillman.

This zone differential structure includes all the territory in the Lower Michigan Peninsula and thereby includes the locations of all plants which are currently pooled under either of the orders to be consolidated and those of the additional plants which will be brought under regulation by expansion of the marketing area. However, in the event plants located outside the above zones should become pool plants, provision should be made to assure their proper price alignment with the plants in the specified zones. The most likely locations of such plants are south of the Michigan State line in the States of Ohio and Indiana. A differential of the amount provided for the zone nearest to the plant plus 1 cent for each 10 miles that such a plant is located beyond the nearest point in such zone will assure proper price alignment with plants located in the specified zone areas as well as reasonably to reflect transportation costs based on distance.

Transfer adjustments. The transfer adjustment credits to handlers operating distributing plants, on milk received from other pool plants and allocated to Class I, should be modified to reflect the amount applicable at the location of the transferor plant under the aforementioned schedule of location differentials.

Certain producer associations proposed that transfer adjustment credits be modified by applying a schedule of allowances for interplant movements different from the rates applicable to Class I and base prices and that all such transfer credits be discontinued after a period of 2 years. In support of the proposed change, proponents stated that the cost of moving milk a given distance from one plant to another plant frequently is greater than the difference in direct-delivery costs for the respective locations. The proposed adjustment rate is 10 cents per hundredweight plus 1 cent more for each 10 miles, or portion thereof, that the transferor plant is located more than 50 miles from the City Hall in Detroit. Proponent contended that this schedule would be adequate to cover the transportation cost of moving milk from supply plants to bottling plants in Detroit.

The 2-year limit on the proposal was based on the estimated completion date of the conversion from can to bulk tank handling in the market. Thus, proponents contend, the proposals would tend to equalize handler costs on milk from supply plants with that which is direct-delivered from farms.

The proposed transfer credits would not be significantly different from the zone location differential rates adopted herein where the transfer is between plants which are both located beyond 50 miles from the City Hall in Detroit since both rate schedules are based on a prevailing hauling cost of 1 cent per 10 miles (earlier explained).

The proposed transfer credit schedule indicates that there is an additional 5 cents "fixed cost" in transporting between plants as compared to differences in rates for direct-delivery hauling. Application of the 1 cent per 10 mile rate within the 0–50 mile zone (where the proposed rate was 10 cents) would leave a residual of 5 cents. Thus, handlers could be expected to pay 5 cents more per hundredweight for transferred milk than for direct-delivery milk under the zone transfer credit schedule.

A transfer adjustment credit to handlers which is greater than the Class I price differences by zones is not necessary to achieve adequate supplies at distributing plants and would tend to provide less incentive to use the most efficient means of getting milk to the market.

There are several handlers in the market who currently are paying an extra 5 cents per hundredweight (transportation) to obtain supply plant milk. Presumably there is some advantage to the particular handler in obtaining milk from supply plants which is worth the extra cost in light of the currently available alternative of receiving direct-delivery milk. By employing only one schedule of location adjustment credits under the order, each handler will be in a position to choose the method of obtaining a milk supply which best suits his needs without burdening the producers' price with transportation charges higher than are required by direct-delivery made at their expense.

Several producer associations proposed further that the location adjustment credits on transfers of milk from supply plants be limited to the actual volume of Class I milk processed (less receipts of other milk allocated to such class) rather than apply to 108 percent of Class I volume in the plant as under the present Southern Michigan order. This proposal would require the handler purchasing from country supply plants to pay the interplant transportation cost on all (rather than on a portion of) such receipts of whole milk which are utilized as Class II use in his city distributing plant.

Proponents contended that because of the change to bulk tank handling in the market whereby all plants can be adequately supplied on a direct-delivery basis, there is no need to assure that the market be supplied through transshipments from supply plants by allowing an extra margin beyond Class I sales volume in computing the handler's transfer credit. To the extent that such credit could be attributed to assuring some unnecessary reserve of milk at bottling plants, it would seem appropriate to adopt the proposal. However, there are pertinent aspects of the provision which are not appreciably affected by the change to bulk tank handling.

Under the classification and accounting provisions of the order, shrinkage and inventory of fluid milk products on hand at the end of the month are in Class II.

There are also daily variations in demand for fluid items which cannot be forecast with exactness. Thus, as a practical matter, it is virtually impossible for a distributing plant to utilize as Class I, all milk brought in from country plants. The provisions of the order adopted herein afford the same net return to producers for milk so used at Detroit distributing plants irrespective of whether it is obtained directly from the farm or through a supply plant. Elimination of the transfer credit would return a higher net price to producers for milk moved to the city through supply plants than that which is obtained on a direct-shipped basis. In view of such circumstances it is appropriate that the order continue to provide a reasonable margin in the amount of transferred milk on which transportation credit is allowed. It is concluded that the present order provision accomplishes this purpose and should be continued.

Deliveries divided between zones. Several cooperatives proposed that location adjustments applicable to payments to producers for base milk and milk to be paid for at the uniform price or adjusted uniform price should be at the rate applicable to Class I milk (not including the 4-cent direct-delivery differential previously adopted herein). It was proposed further that in the case of any producer whose milk is physically received at plants in more than one price zone during the month, the location adjustment should be the weighted average of the adjustments for the respective plant locations, provided that if 65 percent of a producer's milk were delivered to plants in a single zone during the month, all milk of such producer for the month would be priced at such zone.

The location differential rate schedule is such that when taken in combination with the producer's hauling rate it reflects the location utility of the milk. Thus, under ordinary circumstances, the producer would receive about the same net return at each zone location and therefore would be indifferent as to whether his milk is shipped to a nearby supply plant or to a more distant distributing plant in a closer-in zone.

Distributing plants receiving direct-delivered bulk tank milk ordinarily will rely on such supplies for their full weekly needs, the only exception being when supplemental, or emergency, supplies are required from supply plants. On the other hand, on nonbottling days such as weekends, or where for other reason surplus accumulates at the distributing plant, some of the bulk tank milk may be diverted therefrom to manufacturing plants. At certain of the distributing plants, however, milk received, including weekend supplies, is "banked" at the plant for later use on heavy bottling days.

For each zone except Zone I (which includes Detroit) there are few, if any, instances when diversion to a supply plant as compared to delivery to a distributing plant means a change in pricing zone. On milk customarily delivered to fulfill the needs of Zone I distributing plants, however, the diversion of such milk to manufacturing use on certain days of the week is likely to involve movement to a lower-priced zone. Thus, there is present the question of appropriate pricing of the milk on days of diversion to another price zone.

Milk which was never intended to be utilized to fulfill Zone I fluid requirements, and with respect to which the greater transportation cost to such zone was not incurred, should not be paid for at the Zone I price. The possibility of assigning more producer milk to a higher-priced zone than is needed for zone requirements, which extra milk is diverted to another zone, should be minimized by adopting the proposal to apply the weighted average of the zone rates based upon the respective deliveries to each zone. Contrariwise, milk which is intended to fulfill such Zone I requirements, and which is regularly and substantially so used, should receive the price for Zone I where ordinarily received even though it sometimes may be diverted for the convenience of the handler. The delivery of 65 percent or more of the producer's milk to Zone I is reasonable evidence of the continuing need of such milk for zone requirements and thus warrants the pricing of all milk of the producer according to that zone.

The assignment of milk to plants for pricing on the above basis will serve orderly marketing by encouraging an optimum adjustment of supplies to zone needs. It will also make possible uniform payment to producers whose milk is cutomarily received at Zone I plants and thus is made fully available for fluid use, irrespective of whether the receiving handler holds all such milk in the zone or chooses to divert on weekends to a lower priced zone.

It is recognized that careful accounting practice will be required to determine the milk eligible for Zone I pricing. While it may be expected from the record that producers will be assigned rather consistently to given plants, thus reducing the administrative problem of determining whether the producer's milk has met the delivery requirement of the provision, we may not dismiss entirely the possibility of some administrative difficulty in such regard. The provision has merit, however, and should not be denied on this potentiality.

(b) *Class I milk prices.* The Class I price should be established at the general level (annual basis) which prevails currently in the Southern Michigan market. The method of determining the Class I price should provide for a uniform monthly differential adjusted by a supply-demand formula similar to that now provided for under the Southern Michigan order.

General level of Class I price. The present annual level of Class I milk prices fixed under the terms of the Southern Michigan order market should be continued.

Several producer organizations proposed that the stated Class I differential be uniform in all months at $1.43 f.o.b., Zone I, the average of the present seasonal differentials ($1.23 and $1.63) under the Southern Michigan order. They proposed further that in the event a supply-demand adjustor is deemed a necessary adjunct to the Class I pricing formula, the present Southern Michigan order supply-demand adjustor be continued, modified principally with respect to the maximum amount, plus or minus, by which such formula may adjust the Class I differential during any month. In effect, producer proposals relative to the level of the Class I differential, together with their proposal to modify the supply-demand adjustor, would result in an immediate 20-cent per hundredweight increase in Class I price for the consolidated market as compared to that currently prevailing in the Southern Michigan market. A more detailed discussion of the supply-demand formula is set forth elsewhere in these findings.

Representatives from certain independent milk dealers operating in major cities of western Michigan (Battle Creek, Kalamazoo, Grand Rapids, and Muskegon) were strongly opposed to any change which would result in a higher Class I price level under the consolidated order. They testified that their respective areas have been more than adequately supplied with milk. They contended that conditions in these areas make it economically impossible for them to absorb any increase in Class I cost and pointed to intensive resale competition with milk distributors from the South Bend and Fort Wayne, Ind., and Toledo, Ohio, markets.

In view of the supply of milk in excess of bottling needs in the Southern Michigan and Muskegon markets (43 percent and 41 percent, respectively, during 1964) and no indication of milk shortage in the foreseeable future, an increase in the minimum Class I price above current levels would not be warranted. It is concluded, therefore, that while as stated below, seasonality in the Class I price differential should be removed, nevertheless it should be fixed at a level which, taking into account the adjustments occasioned by revisions in location pricing, will not be significantly different from the annual average now prevailing.

Therefore, the Class I differential under the merged and expanded order should be $1.40, a reduction of 3 cents from the average differential under the present Southern Michigan order. Such 3-cent adjustment on all Class I milk will return about the same total amount of money to producers as is returned to them under the present Southern Michigan and Muskegon orders.

The plus 4-cent direct-delivery differential applicable at metropolitan Detroit plants will apply to about one-half of all the Class I milk and to a significant proportion of the Class II milk. Thus, it would require about a 2-cent reduction in the price on all Class I milk in the merged market to return the same amount of money to producers under this particular provision. The Class I milk outside metropolitan Detroit is about equally divided between plants in the remainder of the present zero zone (where no change is made in the location adjustment) and the other zones. The weighted average change in the location adjustments in zones other than the zero zone (including Muskegon) is about a plus 7.6 cents. This increase in

price would apply to about one-fourth of the milk under the combined orders and amount to nearly two cents on all Class I milk. The net effect of all changes in location adjustment rates amounts to about four cents on all Class I milk. The application of the present Southern Michigan supply-demand adjustment of minus 45 cents to the volume of Class I milk under the present Muskegon order accounts for an additional 1-cent reduction on all Class I milk to be covered by the merged order. The latter amount should be offset against the other reductions, however. Consequently, it is appropriate to adjust the $1.43 average Class I differential under the present Southern Michigan order to $1.40 under the combined order.

Although certain handlers favored the adoption of the producer proposal aimed at effecting an increase of 20 cents per hundredweight in the level of Class I price, their interest in this matter was principally related to the effect such an increase in price might have in lessening the amounts of the negotiated premiums (above the order Class I prices) in the markets.

Seasonal Class I price differentials. The Class I price differentials $1.63 and $1.23 on a seasonal basis should be replaced with a uniform monthly differential of $1.40 at Zone I plants. This differential represents the 12-month average of the present seasonal differentials of the Southern Michigan market, adjusted only to the extent of offsetting the increase in price level which otherwise would result from the changes made in zone pricing and the adoption of a direct-delivery differential, as discussed above.

As previously stated, several producer groups proposed that the Class I differential be uniform in all months and that such differential be $1.43 per hundredweight at Detroit. They cited as their reasons for a uniform Class I price differential the more even seasonal pattern of production which has prevailed in recent years, due in large part to the almost complete changeover from can cooling and interplant shipment of milk to the present-day bulk tank cooling and shipment and the presence of the base-excess plan of payment.

They pointed out in this connection that the necessarily large investment associated with the acquisition of farm bulk tank equipment has encouraged dairy farmers to enlarge their operations and to even out milk deliveries throughout the year in order to make the most efficient use of such equipment. Producers contended further that the base plan currently in both orders (and proposed for inclusion also in the consolidated order) likewise furnishes incentive for evenness of deliveries and that a uniform monthly Class I differential would tend to enhance the effectiveness of the plan.

A uniform Class I differential throughout the year should be adopted. The amplitude of change from the month of seasonally lowest production to that of highest production is quite small indicating the achievement of a relatively level seasonal production pattern for the fluid market. This is evidenced by monthly seasonal indexes of producer milk receipts in each market computed from data for the 4-year period 1961 through 1964.[2] The month of July 1963, for example, shows an index of 93 percent compared to an index of 104 for May 1964. Similarly the July–May indexes for the preceding 12-month periods of July 1962–May 1963 and July 1961–May 1962 were 92–105 percent and 94–107 percent, respectively.

The seasonal patterns of milk production in both the Southern Michigan and Muskegon markets are in reasonable alignment. During the 12-month period of July 1963, through June 1964, the monthly index of producer receipts for the Muskegon order market varied at the most by 3.1 percent from that of the Southern Michigan order market and on the average for the 12-month period reflected variance at a rate of only one-half of 1 percent per month.

The relatively even production pattern currently prevailing will be encouraged by continuance of the base plan now a part of both orders. The somewhat higher uniform prices during the spring months of generally higher production which would result from a level Class I differential will enhance the plan by encouraging producers to keep their bases due to widening the difference between the base and excess prices during the flush production months.

There was no opposition by either handler or producer groups to the proposal to eliminate the seasonal pattern of Class I pricing. Indeed, a number of handlers, as well as the producer groups, indicated their support for such a change.

In view of the above considerations, it is concluded that the substitution in the consolidated order of a uniform monthly Class I price differential for the present seasonal differentials is appropriate and should be adopted.

Supply-demand adjustor. A supply-demand adjustor which would retain the essential features of that which is now a part of the Southern Michigan Class I pricing formula should be included in the consolidated order.

Several producer associations suggested use of the present Southern Michigan supply-demand adjustor, with slight modification, in the event of a determination that such a method of adjusting prices should be made a part of the consolidated order. The Muskegon order Class I pricing provisions do not contain a supply-demand factor. As stated earlier, the producer proposal would modify the Southern Michigan formula by changing the limit (upward or downward) by which the action of the "adjustor" may affect the price per hundredweight in any month from a maximum of 45 cents to a maximum of 25 cents. They suggested also that the supply-demand formula computation should include the producer receipts and Class I sales of all handlers to be fully regulated by the consolidated order rather than only the receipts and sales of present Southern Michigan order handlers.

A supply-demand factor should be included as one of the components of the Class I pricing scheme of the consolidated order. The purpose of a supply-demand adjustment provision is to adjust promptly the minimum Class I price upward or downward as the supply of producer milk changes in relation to Class I sales. This purpose is consistent with the criteria of the Agricultural Marketing Agreement Act, as amended, which provides that the prices to be fixed under the authority of such Act shall be reasonable in view of market supply and demand conditions, assure a sufficient quantity of pure and wholesome milk, and be in the public interest. The automatic adjustment of Class I prices in response to changes in the relation between supplies and Class I sales is designed to carry out in the market the price objective of the Act through encouragement of supplies at the levels needed for fluid requirements.

The present supply-demand formula under the Southern Michigan order provides for the adjustment of the Class I price primarily on the basis of the market's supply-sales relationship in the most recent 2-month period (current utilization percentage) in relation to a "norm". Instead of using a specified schedule of seasonal adjustment factors, as in some other orders, the formula provides a method of computing the monthly norms which is designed to provide automatic "updating" for seasonal variations in the market. The average level of Class I utilization[3] in the most recent 2-month period is converted to an "annual" basis by using a seasonal index calculated from market data for the preceding 26-month period. The Class I price is decreased, or increased, when the most recent 2-month data indicate an annual level of market supply more, or less, than 136.7 percent of Class I use.

A schedule of stated monthly standard utilization percentages (norms) which averages 136.7 percent of producer receipts to Class I utilization should be adopted in lieu of the present system for computing monthly "norms" as now provided in southern Michigan.

The seasonal patterns of producer receipts and of Class I sales in the Southern Michigan market during the period 1962–1964 have not changed significantly. During this time, the relationship of supply to Class I utilization was greatest during the May–June period used to compute the July norm. Conversely, the supply generally was lowest in relation to Class I sales during the October–November period, the period used to compute the December norms. Moreover, the relatively close seasonal alignment of norms computed for the 3-year period is illustrated by the fact that the July norms for the years 1962, 1963, and 1964 were only 12.4, 12.7, and 12.5 per-

[2] Indexes computed by the "moving average" method whereby the ratios of daily average receipts of producer milk for the month to a 12-month moving average of such receipts (center on the seventh month) are computed.

[3] The percentage which the volume of producer milk is of Class I utilization in the market as reported by handlers is referred to in these findings as "Class I utilization percentage".

cent, respectively, higher than the December norms for the same years.

In light of these conditions the present mechanics of the Southern Michigan supply-demand adjustor may be simplified by specifying a schedule of monthly norms to replace the more complex system of calculating norms as now provided. In order that the market administrator may announce the Class I price early in the month to which it applies, as proposed elsewhere in these findings, it is necessary to provide that the adjustor be computed on the basis of the receipts-sales relationship for the second and third months preceding the pricing month in lieu of the first- and second-month period employed in the present Southern Michigan order. A temporary provision is included to permit the market administrator to employ the receipts and utilization data for the second and third months prior to the effective date of the consolidated order as established for handlers and pool plants pursuant to the provisions of the prior Southern Michigan and Muskegon orders.

It is not expected that the combining of the receipts and sales of the two subject markets in computing current utilization percentage will alter significantly the amount of the supply-demand adjustment called for by the formula. The ratios of Class I utilization to producer receipts in the two markets are very nearly the same. The volume of milk priced under the Muskegon order is only about 3 percent of the volume of milk priced under the present Southern Michigan order. Also, it is anticipated that the effect upon the supply-sales relationship resulting from the regulation of additional handlers through expansion of the marketing area will be negligible. It is estimated that the volume of milk marketed by such presently unregulated handlers will represent less than 1 percent of the milk to be priced under the amended order.

Even with use of the expanded sales and receipts data in the formula computation, the formula is expected to result in computed adjustments to the Class I price differentials closely approximating those which would result if the more complex formula provisions of the present Southern Michigan order were adopted. This is appropriate inasmuch as there was no testimony to support any significant revision of the general level of norms presently called for under the present Southern Michigan order formula. The following schedule of norms has been constructed to fit this general level and should be adopted:

Month for which pricing is being computed	Preceding months used in computation	Standard utilization percentage
January	October, November	131
February	November, December	135
March	December, January	134
April	January, February	132
May	February, March	133
June	March, April	135
July	April, May	141
August	May, June	147
September	June, July	143
October	July, August	139
November	August, September	138
December	September, October	133

The 45-cent maximum amount by which the present Southern Michigan order formula may adjust the Class I price differential plus or minus during any month should not be changed in the revised formula.

The supply of milk in the Southern Michigan order market in recent years has been increasing at a more rapid rate than the demand for Class I milk. During 1961 receipts from producers were 159 percent of Class I sales. Similarly, the years 1962, 1963, and 1964 show a relationship of 170, 172, and 175 percent, respectively. The supply-demand adjustor during this period has resulted in minus supply-demand adjustments to the Class I price. Since May 1961 the computed adjustment has been in excess of the minus 45-cent per hundredweight limit set by the order. As a consequence, the minus 45-cent limit has been the adjustment to Class I price from May 1961 to date.

During this same period, however, producers have been obtaining negotiated premium prices for milk going into fluid bottling use which, on a monthly average, have exceeded the 45-cent supply-demand adjustment. These premium, or "super pool", prices have negated the effectiveness of the supply-demand adjustment and make its actual effect indeterminable.

The 175 percent production-sales relationship for 1964 represents a 38 percentage point deviation from the 136.7 "norm" provided for in the present formula. Of this 38 percentage point deviation only 15 points are actually reflected in the 45-cent effective adjustment now prevailing in the market. It is not appropriate, therefore, to consider any change in the limit of adjustment as now provided for under the Southern Michigan order which would have the effect of raising the Class I price level.

Producers suggested the possibility of a "regional" supply-demand adjustor under which the sales and receipts of certain nearby orders, as well as those of the two subject markets, might be included for purposes of establishing "norms" and of computing current utilization percentages. They further suggested limiting the amount of supply-demand adjustment in a manner which would maintain a certain fixed alignment of Class I prices with the Toledo (Northwestern Ohio order) market. Sufficient evidence was not offered, however, which would support adoption of these suggestions at this time.

Other changes relating to Class I price. The order should provide that the Class I price be computed on the basis of the basic formula price (Minnesota-Wisconsin average manufacturing price) for the preceding month rather than for the current month as at present.

This is a modification of present provisions of both orders and will make it possible for the market administrator to announce the Class I price early in the month to which it applies. Both orders presently provide for such announcement on or before the fifth day of the month following the pricing month.

The revised procedure for computation of the Class I price will be consistent with more recent Class I pricing procedures in other Federal orders. Producers and handlers will be in position to know the exact Class I price early in the month to which it applies and it will promote Class I alignment with other nearby orders. Public announcement of the Class I price would be made by the market administrator on or before the sixth day of the month for which such price is applicable.

Butterfat differentials. Handler and producer butterfat differentials in the consolidated order should be maintained at the same level as those in the present Southern Michigan and Muskegon orders. Class I, Class II, and producer butterfat differentials in the existing orders are computed by multiplying the Chicago 92-score butter price for the current month by 0.113.

A witness for one association of producers proposed that the factor used to compute the handler and producer butterfat differentials be increased to 0.120. The effect of such an increase on the cost of milk to handlers would be to increase butterfat prices and decrease prices of the skim milk component.

Butterfat differentials should not be changed. Current prices and butterfat differentials have attracted supplies of producer milk which contain a higher percentage of butterfat than the average butterfat content of the Class I products made from such milk.[4] In southern Michigan for the recent period of January 1963 through October 1964, the butterfat content of producer milk averaged 0.6 point (0.06 percent) higher than that of Class I milk. Muskegon producer milk during this same period averaged 2.2 points (0.22 percent) higher in butterfat content than Class I milk. Thus, on the average each hundredweight of producer milk used in Class I in southern Michigan and Muskegon yielded 0.06 of a pound and 0.22 of a pound, respectively, of butterfat destined for manufacturing uses.

Based on October 1964 figures, the proposed higher differential would have increased the price of Class II butterfat from 68.85 cents to 73.67 cents per pound. There was no evidence by proponent to show that handlers or the cooperatives who are handling the market surpluses could afford to take either current or any additional amounts of surplus butterfat at this higher price. The proponent cooperative does not engage in processing operations.

There are indications also that the demand for butterfat for Class I milk items in the market is declining relative to the skim milk component. In Southern Michigan skim milk sales for the first 10 months of 1964 were up 9 percent from this period a year earlier. By contrast, sales of half and half, coffee cream, and whipping cream during this 10-month period of 1964 increased less than 1 percent from the same period in 1963. Also a "fortified" product containing only 2 percent butterfat recently was introduced in Southern Michigan. Sales of

[4] Official notice is taken of the price announcements of the market administrator for 1963–64 for southern Michigan and Muskegon and of the Milk Market Bulletin for southern Michigan for 1963–64.

this product climbed from 1.2 million pounds during December 1963 to 2.6 million pounds in October 1964. Low-fat Class I products, therefore, have increased substantially while sales of products with high fat content have either expanded at a slower rate or have declined. Market data do not support higher butterfat prices.

(c) *Pool plant requirements.* The provisions governing "pool plant" status should be modified to base pool status for supply plants operated by a cooperative association on the proportion of member producer milk which is moved directly from farms, or transferred from its own plant, to distributing plants. Such a provision is appropriate to realize efficiencies in handling the market supply of milk.

Performance requirements for pool plant status are the means of identifying and qualifying producer milk for participation in the marketwide pool. A "distributing" plant qualifies for pool status on the basis of the percentage of the milk received at the plant which is distributed on routes in the form of fluid milk products. A "supply" plant qualifies for pool status on the basis of milk transshipped to pool distributing plants. Producer milk which is associated with either type of pool plant, either by being physically received at the plant or by diversion therefrom, is qualified as pool milk. This method of qualifying producer milk at country supply plants for pooling has become inadequate under the bulk tank method of moving milk from farm to plant.

Handling of milk by bulk tank is displacing the traditional function of the supply plant as the principal means of assembling milk for shipment to Detroit. About two-thirds of the milk received at Detroit plants now is shipped by bulk tank directly from the farms where it is produced. As previously stated, it is practicable to furnish all such plants by this means. With the increase in bulk tank handling, much of the milk which was formerly qualified for pool status through supply plant shipment (by first being received at such plants and transshipped to distributing plants) is moved directly from the farms to distributing plants. Country assembly, or receiving, stations are fast disappearing. Milk received at supply plants now represents the residual supplies in the market. A principal function of the country supply plant with manufacturing facilities today is providing an outlet for producer milk on weekends and, to some extent, for daily and seasonal reserves rather than providing an assembly point for shipment to the fluid market.

Most of the supply plants affected by this situation are operated by cooperative associations. In this market most handlers depend on cooperative associations for their supplies of milk and such associations must provide the necessary manufacturing facilities to take care of reserve supplies on the days that proprietary handlers do not need the milk.

Because of these conditions, cooperative associations proposed that the bulk tank milk which a cooperative, as the handler, causes to be shipped directly from farms to distributing plants be included with the milk shipped from its plants as the basis for qualifying for pool status additional milk which is moved from farms to manufacturing plants.

An alternative proposal suggested by a proprietary handler would permit a cooperative to qualify its supply plants for pool status on the basis of the proportion of the milk of all member producers which is delivered to pool plants of other handlers, whether or not the cooperative is the handler on any such milk. The order now contains such a provision but cooperative witnesses stated that it is not adequate to fit all situations. For example, one cooperative operates its own distributing plant as well as a supply plant and such provision does not allow any pooling qualification credit for its supply plant with respect to milk formerly received there but which is now moved to its distributing plant directly from farms.

Supply plant performance requirements aid in assuring adequate supplies of milk for the market by providing a means whereby those producers who regularly provide supplies for the market can share in the proceeds from Class I sales. Such sharing in the Class I sales of the market provides some assurance that the necessary supplies of milk will be available when needed. To be effective in accomplishing this purpose the performance requirements should assure that the principal function of the supply plant is supplying the Class I outlets (pool distributing plants) and that the milk received at such a plant is part of a supply on which the market may depend.

The present supply plant performance standard for pooling under the Southern Michigan order requires that 25 percent or the "call percentage", whichever is higher, of receipts at a supply plant actually be shipped to distributing plants. The call percentage is a variable performance standard designed to require shipment of more than 25 percent of the milk at each supply plant as the market administrator estimates the additional need at distributing plants. The present cooperative "balancing" plant provision permits qualification of a cooperative plant when at least two-thirds of the milk of producers who are members of the association is delivered to pool plants of other handlers.

Adoption of additional cooperative "balancing" plant performance requirements based on the association of cooperative member milk to pool distributing plants should be made to overcome the difficulties cooperatives have experienced in maintaining pool plant status for their supply plants under the present provision which, in certain instances, requires the movement of bulk tank milk to such plants for reshipment when it is needed at distributing plants. However, the requirements on a cooperative should be such as to establish that its major function is supplying pool distributing plants.

Proponent cooperatives suggested that the minimum performance standard for their balancing plants be established at 25 percent or the call percentage. The 25 percent standard was adopted under the Detroit order about 10 years ago when the marketing area was limited to Detroit and the nearby cities of Ann Arbor, Pontiac, and Port Huron. At that time a substantial proportion of the market's fluid milk requirements was assembled through supply plants. Detroit handlers now obtain about two-thirds of their supplies on a direct-delivery basis. In addition the marketing area was expanded in 1960 to include substantial additional territory and now it is being further expanded. All plants in the outlying territory, which account for about 50 percent of the Class I use under the order have always obtained supplies on a direct-delivery basis. Thus, about five-sixths of the fluid milk needs of distributing plants are now obtained on a direct-delivery basis. The use of such direct receipts from member producers of a cooperative association along with shipments from its supply plant to determine an overall standard for pooling the supply plant requires a substantially higher percentage of "shipments" than the 25 percent figure would indicate.

The order should provide that a plant operated by a cooperative association be a pool plant if at least one-half of the total member producer milk of the cooperative is moved either directly from the farm or from its plants to pool distributing plants. In addition, pool status should be provided under the order for a plant operated by a cooperative association if at least one-half of the milk received at all pool distributing plants is member producer milk of the cooperative.

A cooperative which delivers a majority of its total member producer milk to pool distributing plants is sufficiently identified with the market to assure, under normal circumstances, that its milk is available to distributing plants. A cooperative which supplies the majority of the aggregate requirements of all pool distributing plants in the market likewise may be considered a principal source of the market's regular supplies. Any cooperative which serves the market by making its milk available for the market's Class I milk needs also has the burden of disposing of the reserve supplies associated with such fluid milk need. Thus, it is appropriate that such cooperatives be provided the opportunity to pool their balancing plants on a basis which permits efficiency in their marketing operations.

The pool distributing plant performance requirement which permits exclusion of receipts certified by a cooperative association which operates no plant as having been delivered for manufacturing use by diversion from other pool plants, should be modified to limit the volume of all such certified receipts to not more than the volume of all other milk delivered to pool distributing plants by producer members of such association.

The Southern Michigan order presently has a limit of one-third on such certifications by a cooperative. This limit was suspended for the period October 1964 through March 1965 as the cooperative operating under this provision anticipated that the volume of its reserve supplies would exceed the one-third

limit during this period. The cooperative association which markets its reserve supplies under this provision of the order proposed that the provision be continued as suspended (without any limit on the amount of milk it may certify as being delivered for manufacturing use).

The provision facilitates the orderly and efficient marketing of the cooperative's reserve supplies at a plant which operates in the dual capacity of a distributing plant and a manufacturing plant. The cooperative has always used this means of disposing of its reserve supplies that could not be marketed to other distributing plants. This outlet for the cooperative's reserve supplies represents the most economical means of marketing such milk.

There was no opposition to the cooperative's "no limit" proposal. This is the only instance of this type of arrangement in the market and there was no indication that the parties involved would tend to associate additional milk supplies with the market if no limit were provided in the order. However, since the provision is in the order and it is open for general use, a limit should be included to assure that at least a majority of a cooperative's member producer milk is marketed for fluid use as a condition of operating under the provision.

The present Southern Michigan order includes a seasonal performance standard for pool distributing plants. To qualify for pool status as such distribution of fluid milk products on routes must be at least 55 percent during each of the months of October through March, and 45 percent during other months, of receipts from producers and supply plants. In addition, automatic pool status is provided during April through September for those plants which meet the 55 percent requirement during each of the previous months of October through March.

The order should provide pool plant status for a plant from which 50 percent of milk receipts are distributed on routes during the current month or either of the two preceding months. This will conform more adequately to the various utilization patterns in the market.

In view of the relatively uniform supply-sales balance which now occurs during all months of the year, it is appropriate that the order employ a uniform requirement of 50 percent in all months. The provision which provides automatic pool plant status during the months of April through September on the basis of performance during the preceding October through March should be replaced with one which provides for pool plant status if the 50 percent requirement is met in either of the 2 preceding months. There appears to be no uniform pattern of monthly Class I utilization at distributing plants in all areas of the expanded marketing area. Handlers in certain areas of the market have a greater volume of Class I sales during the summer vacation season while others have higher sales volume during the fall and winter months, particularly those handlers who have a substantial proportion of their business in school milk contracts. Such a provision will also allow time to adjust plant operations to meet pooling requirements in the event of unanticipated shifts between handlers of large sales accounts such as military contracts or chain store accounts.

Call percentage. With certain modifications the "call percentage" provision of the present Southern Michigan order should be included in the consolidated order.

Under present Order No. 40 a supply plant must ship to distributing plants at least 25 percent of its receipts or the percentage thereof which is "called" by the market administrator, whichever is higher, in order to qualify as a pool plant. To compute the call percentage the market administrator first estimates for all regulated distributing plants the monthly Class I requirements plus a 15-percent operating margin. From this figure are subtracted the expected receipts of milk at such plants directly from producers' farms and from supply plants which regularly ship their entire available milk supply to distributing plants during August through March. The remaining Class I milk is divided by estimated receipts for the month at supply plants other than those which ship their entire supply as described above. The resultant percentage figure then is reduced by one-fourth (to lessen the chance of calling more than actually needed) in arriving at the effective call percentage.

It was proposed that the call provision be updated to exclude from the computation the Class I milk and the receipts of those distributing plants which no longer regularly receive milk from supply plants. The proposal would determine the call percentage by using only the figures of distributing plants which had received milk from supply plants during each of the most recent 12 months.

The proposed revision should be adopted. Changes have occurred in the market which make the present method of computing the call percentage obsolete. In 1955 when the call percentage first became effective in the then Detroit order, a major portion of the regulated distributors received milk from supply plants. Since that time two important changes have taken place. One is an increase in the amount of milk delivered directly from farms to Detroit bottling plants in bulk tanks. The other is that with expansion of the marketing area since 1955 to cover most of southern Michigan, a large number of handlers who receive no milk from supply plants have come under regulation.

Consequently, today only 28 of the approximately 115 distributing plants in the Southern Michigan market receive milk from supply plants. No distributing plants in the present Muskegon marketing area regularly receive milk from supply plants. Under the call provision which was designed for the earlier period, shortages or surpluses at the other distributing plants obscure the adequacy of supply levels at the 28 distributing plants which still receive their milk from supply plants. The provision no longer accurately measures the degree to which supply plants should be required to ship to insure adequate supplies at Detroit for bottling.

By computing the call percentage as modified, the quantities needed by distributors from supply plants would be clearly indicated and the provision would encourage the needed shipments.

An additional change should be made to coordinate the call percentage with the revised standards for pool plant qualifications. It is provided that a cooperative may pool a supply plant whenever (1) at least 50 percent of the receipts at all pool distributing plants is the cooperative's member producer milk, or (2) at least 50 percent of the association's total member producer milk is moved to pool distributing plants. The new provision would pool in one unit both the milk received at the cooperative's supply plants and the milk shipped directly from member farms to the distributing plants.

Milk at several supply plants of the cooperatives undoubtedly will pool under the new provisions. To assure that the supplies of milk at these plants, as well as bulk tank receipts, will be available to the market, any cooperative should be subject to the call percentage with respect to all its member producer milk. In order to pool their supply plant milk, the cooperatives, therefore, would be required to keep their milk supplies available for Class I use when needed. The call percentage would not be applicable to the member producer milk of a cooperative qualifying under the new provision, however, until the call percentage exceeded the 50-percent minimum identification with pool distributing plants established for such cooperative's member producer milk.

With the recommended modifications the call percentage will assist in insuring an adequate supply of milk for fluid use at all times.

(d) *Classification of milk.* The definitions of Class I milk and Class II milk in the present Southern Michigan order should be adopted in the consolidated order with only minor modifications.

Classes of utilization. The present Southern Michigan order includes in Class I all skim milk and butterfat disposed of as any "fluid milk product" which is not accounted for as Class II milk. "Fluid milk products" include milk, skim milk, flavored milk, buttermilk, yogurt, cream (except frozen, whipped and sour cream), and any mixture of milk or skim milk and cream, including half and half, for consumption in fluid form.

Throughout the proposed marketing area the above fluid items must be made from milk approved for fluid use by health authorities. Consequently, to produce such milk farmers must get a return for it which is commensurate with the higher production and delivery costs associated with milk under health inspection requirements for bottling. To insure production of an adequate supply of milk for fluid use, the above products which require milk approved by health authorities should be included in Class I to be priced at the Class I price level.

This Class I milk definition is also quite similar to the one in the present Muskegon order. It differs only with respect to sour cream which is a Class I

item in Muskegon. The Muskegon order classification of this product should not apply, however, because in the remainder of the consolidated marketing area handlers are not required to make this item from milk inspected and approved for fluid use.

With exception of Class II shrinkage, the Class II milk definition of the present Southern Michigan order should be adopted also. Class II milk in the Southern Michigan order includes milk used to produce items which are not included in the fluid milk product definition. Handlers generally are not required to make these products from milk approved for fluid use. These Class II items compete in a common market with products made from manufacturing grade milk. Milk used to produce these products should remain in Class II.

This classification will permit competitive pricing of such milk and will enable cooperatives and handlers to manufacture and dispose of milk which is in excess of the fluid needs of the market. Certain other nonfluid items and month-end inventories are also included in Class II in the present Southern Michigan order. This classification for such products has worked satisfactorily and should be retained.

Computation of plant shrinkage. The Class II shrinkage allowance as provided for under the current Southern Michigan order should be continued in the consolidated order, modified principally to permit a division of allowable shrinkage with respect to bulk tank deliveries of producer milk to a pool plant by a cooperative association operating in the capacity of a handler on such milk.

Under the present terms of both orders a maximum allowable shrinkage of 2 percent is permitted the handler of a pool plant with respect to producer milk receipts and certain bulk receipts of fluid milk products from other order plants and from unregulated supply plants. No shrinkage is allowed for handling at a supply plant or to a cooperative association as a handler on bulk tank milk deliveries to pool distributing plants. In such cases the full allowance for shrinkage is passed on to the transferee plant.

Several producer groups proposed an allowance to the cooperative of shrinkage up to one-half of 1 percent of the farm weights when it is the first handler on such bulk tank milk, and 1½ percent to the pool distributing plant handler who receives such milk from the cooperative.

Producers point out that in recent years the conversion from can to bulk tank has been at a rapid pace, accentuating the need for division in the assignment of shrinkage. Loss may occur, they contend, from adherence of milk to the side of the farm bulk tank, in the transfer from bulk tank to a farm pick-up tanker, and in the transfer from tanker to the plant of receipt.

It is concluded that the proposed division of shrinkage on bulk tank milk for which a cooperative association is a handler should be adopted.

As previously indicated, the trend to bulk tank operations in recent years has been significant with more than 85 percent of producer milk receipts under the two orders in combination now in bulk tanks. From market experience with bulk tanks the average difference between the sum of individual farm weights and the scale weight taken at the plant approaches one-half of 1 percent. This is in line with experience in other Federal order markets where a shrinkage allowance of one-half of 1 percent for the function of receiving and cooling alone has been determined to be reasonable.

The division of shrinkage between a cooperative association as a handler on bulk tank milk (allowance of up to one-half percent shrinkage) and the transferee handler who actually processes, bottles, and distributes the milk (allowance of up to 1½ percent shrinkage) together with the other terms adopted herewith will assure the cooperative handler a reasonable share of the total allowable shrinkage. The cooperative association as the first receiving handler of producer milk in bulk tank would be held accountable to the producer-settlement fund for any differences in the quantities of milk received from producers based upon farm measurements, and the total quantity of milk which the purchasing handler claims as received at his plant from the cooperative.

However, when the transferee-handler purchases such milk from the cooperative on the basis of the farm weights, the cooperative, of course, experiences no shrinkage. In such cases the order should continue to provide that actual shrinkage experienced by the transferee-handler up to 2 percent will be allowed him provided the market administrator is notified in advance on this basis of transaction. Similarly, when the handler operating the distributing plant purchases directly from producers without an intermediary handler involved, the maximum allowance for shrinkage at the plant would be continued at 2 percent.

Three handlers in the market objected to any change in shrinkage provisions which would divide the present maximum allowance of 2 percent. They held that if dipstick measurement at the farm is properly handled, no shortage need exist. Two of the handlers so testifying alleged their actual plant shrinkage to be in excess of 1½ percent, the maximum amount of allowable shrinkage proposed to be permitted a pool distributing plant handler with respect to bulk purchases of milk by transfer from a cooperative association handler. In actual practice the handlers testifying purchase their producer milk supplies on the basis of farm weights and tests. Therefore, in such circumstance such handlers would not be denied the advantage of the entire maximum 2-percent allowance under the terms proposed.

No provision is made for shrinkage allowance on milk diversions to nonpool plants. Although such an allowance is now provided for under both orders, little if any milk is handled in such manner in these markets. The expanded Southern Michigan market has ample pool plant manufacturing facilities for handling fluid milk reserves and it is not expected that the situation will change in the foreseeable future. Any variance in weights and tests associated with such a diversion is a matter that can be handled in the terms of sale between the diverting handler and the operator of the plant which physically receives the milk. This modification will eliminate the need for including additional order language without material effect upon handlers.

(e) *Adjusted uniform price.* The method of computing the adjusted uniform price (applicable to milk not under the base-excess plan) should be modified.

It was proposed that the provision for an "adjusted" uniform price be modified. The adjusted uniform price applies only to producer milk for which no "base" has been computed, such as milk of a new producer, and to milk for which the producer has relinquished his computed base. At the present time the adjusted uniform price in each market is the computed uniform price reduced by a specified monthly percentage of the difference between the computed uniform price and the price (Class II) which is required to be paid for excess milk (over base). The present applicable monthly percentages involved in the adjustment are January through March, 30; April, May, and June, 50; July, 15; and August through December, 5. The producers' proposal would substitute an adjustment percentage of 30 for the months of July through December in lieu of the present percentages of 15 and 5.

The purpose of the base-excess plan is to encourage producers to achieve and maintain evenness in their deliveries of milk throughout the year. This can best be accomplished when there is a high degree of conformance to the plan and individual producers generally do not find it possible to relinquish their bases so as to gain temporary price advantage over producers who remain on base.

Proponents testified that under the present plan individual producers have found advantage in relinquishing bases; also, that as a consequence the effectiveness of the base plan, as a means of maintaining even production throughout the year, has been reduced significantly and will be reduced further unless the order is modified to mitigate this advantage.

The effect of the proposal would be to reduce the returns for milk which is delivered as "no base" milk in the months of July through December. At present the reduction in the uniform price paid for such milk in July is 15 percent of the difference between the market blend, or uniform price, and the excess milk price. In August through December the adjustment is limited to a reduction of only 5 percent of such difference in prices.

Some increase in the percentage reduction in the months of July through December is appropriate to insure effectiveness of the base plan. However, in view of the relatively even production pattern achieved in this market, there is no apparent reason why a uniform price reduction as great as 50 percent of the difference between the uniform and excess prices (as currently applies in April, May, and June) is needed in any

month to accomplish the general objective of the provision. A flat reduction of 25 percent of such difference in prices should be sufficient in all months to offset, except in the most unusual cases, any gain in returns to a producer from relinquishing base as compared to returns accruing to other producers who remain on base while at the same time not constituting a deterrent to those individual producers who enter the market for the first time. Thus, the general objective of insuring the effectiveness of the base plan in the interest of an orderly market may be achieved without any significant increase in average adjustment to the uniform price all months considered.

Proponents further recognized that the expansion of the marketing area would result in regulation of certain plants now unregulated and thus bring under order pricing the milk of a number of additional dairy farmers who have not made a base under the terms of either order. Accordingly, they offered alternative proposals for integrating the milk of such dairy farmers into the base-excess payment plan. Any such dairy farmer could (1) provide actual records of his deliveries for the base-forming period on which a base could be computed, or (2) be paid the full (unadjusted) market blend price until such time as he had shipped through a full base-forming period. The purpose of these alternative procedures is to avoid any price penalty to such dairy farmers who could be brought under the plan without prior knowledge of it. It is concluded that such dairy farmers should be accorded these reasonable alternatives.

The merger of the Muskegon order into the Southern Michigan order raises the question of the validity of bases previously made under the former order. Proponents suggested that bases made under the rules of such order be recognized until all producers under the consolidated order receive recomputed bases for the following year in the normal manner. In view of the similarity of present base-excess plans under the two orders, the use of bases in effect under each of the present orders will result in a reasonable distribution of producer returns during any such temporary period under a consolidated order. Therefore, it is not necessary or appropriate to extend in such instances the option of payment at the unadjusted blend price as in the case of completely new shippers. Present producers under the separate orders, however, should continue to have the privilege of relinquishing base under the option of the adjusted uniform price as described above.

(f) *Method of pooling.* Marketwide pooling provisions which are now included in both Southern Michigan and Muskegon orders should be retained in the consolidated order. Marketwide pooling is required in this market to maintain orderly marketing.

A marketwide pool is necessary to distribute among all producers the burden of carrying the reserve milk supply for the market and thus to insure orderly disposal of such reserve milk. The reserve supplies of the Southern Michigan market are unevenly distributed among pool plants. With somewhat lesser differences, this is also true in the Muskegon market. At one extreme are the supply plants with manufacturing facilities, nearly all of which are operated by cooperatives. Conversely, the great majority of the proprietary distributing plants ordinarily receive only enough producer milk to supply their Class I needs. Relatively few distributing plants maintain manufacturing facilities although certain of such plants process cottage cheese. It is at the cooperative supply plants that most of the reserve milk for the market is carried and manufactured. This relieves most proprietary handlers from directly disposing of their daily and seasonal surpluses.

A proposal for individual-handler pools was made at the hearing. Under individual-handler pools producers who deliver their milk to supply plants in this market would receive prices considerably lower than those who ship to distributing plants with high Class I utilization. The difference in such prices conceivably could be nearly as wide as the difference between the Class I and Class II prices. Thus, the major part of the burden of reserve milk would be reflected in prices to producers at supply plants, while producers delivering to proprietary distributing plants would enjoy virtually a Class I return for all their milk. Cooperatives thus would be handicapped in maintaining efficient facilities for the orderly disposition of milk destined for manufacturing and in assembling milk for shipment to the fluid market. A change to handler pooling undoubtedly would force producers and handlers to develop new methods of handling market supplies of milk, in all probability with reduced efficiency in marketing and an unstable price situation for producers generally.

Marketwide pooling has enabled cooperative associations to develop manufacturing facilities for the efficient handling of the reserve supplies, and yet to be in position to return to their producers the same price as is paid by those handlers who do not assume any direct responsibility of carrying reserve supplies or of providing for their disposition when not needed for bottling. To enable the continued efficient handling of reserve milk, market pooling should be continued.

Market pooling is needed also to provide stable producer prices. Certain sales practices are prevalent which, under handler pooling, could cause wide, unpredictable swings in producer prices at individual plants. It is becoming commonplace for handlers to sell milk in large amounts to wholesale outlets—generally supermarkets or chain store accounts. Competition among handlers for these accounts is keen, and the accounts change hands frequently. When this happens, the percentage of Class I use of the handler can change significantly. Under an individual-handler pool, the producers at a single plant would absorb the entire gain or loss of such an account and an equal loss or gain in sales, as the case may be, would be reflected in the producer blend prices at another plant. In such instances, producer prices at the plants involved could fluctuate markedly. Changes in excess of 25 cents per hundredweight or more could result. It is difficult for individual producers to plan their operations efficiently when prices can vary to this extent simply because of the change of an account from one handler to another.

When such shifts in sales between pool handlers take place under a marketwide pool, however, there is no resulting change in producer prices. This is so because market Class I utilization in the aggregate is prorated over all producers. The greater stability of producer prices under marketwide pooling will assist producers in planning their operations.

An alternative proposal was submitted for consideration in the event marketwide pooling is continued. Under the alternative proposal handlers selling primarily "special milks" would be permitted, upon meeting several requirements, to pay their producers the respective utilization values of milk in their own plants through individual-handler pools.

It was suggested that to become eligible for such "limited" individual-handler pooling, "special milks" might have such identifying characteristics as: (a) milk from a single breed of cow, (b) milk for which the applicable health requirements for production are more stringent than for market milk meeting normal health restrictions, (c) milk of fat, solids-not-fat and protein content higher than that of regular milk, (d) milk with brand differentiation, such as "Golden Guernsey", "All-Jersey", "Certified", etc., or (e) milk produced by farmers belonging to a recognized sales and merchandising organization. Four types of milk presumably would qualify immediately for individual-handler pooling provided the additional proposed requirements below were met. These are: Certified milk, "immune" milk, Golden Guernsey milk, and All-Jersey milk. Other types also could qualify if and when a specified standard, as "special milk", were met.

In addition, any "special milk" would be derived solely from milk separately produced, handled, and processed so as to preserve its physical identification at all times. Also, the plant would have to maintain "special milk" sales in amounts not less than 70 percent of the total Class I sales of the plant. Plants failing to maintain this percentage would re-enter the marketwide pool. Finally, any separate handler pool would be subject to producer approval. A favorable vote by 80 percent of the "special milk" producers at the plant would make the individual-handler pool effective.

The record does not provide grounds for the conclusion that the identifying characteristics suggested distinguish "special milk" from other milk in the market for pricing and pooling purposes. No showing was made in the record that there is an inherent value attached to any of the types of milk referred to which is not reflected at present in the price and butterfat differential provision of the order. For example, at the present time "All-Jersey" milk at retail is available to consumers at the same retail price as regular milk.

Further, even if "special milks" could be feasibly identified apart from regular milk on their intrinsic value, it would not be appropriate to provide for their separate pooling. Separate pooling would place the producers remaining in the marketwide pool at a disadvantage. The "special milk" handler could shift the burden of his surplus milk to the marketwide pool by dropping individual producers when production exceeds sales of the "special milk." These producers then could enter a plant in the marketwide pool and share in its Class I sales. When the milk was needed again at the plant handling "special milk," the producers could return to the latter plant. Such practice, of course, would result in market pooling of the plant's surplus without enabling producers in the marketwide pool to share in any Class I returns from the sales of "special milk."

Another feature of the proposal also would cause adverse effect on producers in the market pool. A requirement of the proposal is that a handler shall maintain 70 percent of his Class I business in "special milk" in order to have an individual-handler pool. Therefore, by varying the percentage of his business under the label or other designation as "special milk" a handler could shift his plant back and forth between the market pool and his own pool to suit his own advantage. For example, if a handler's Class I utilization rose above the market average, he could, on seeing a milk procurement advantage, withdraw from the marketwide pool and pay his producers the use value for their milk based on his own utilization. Should the Class I use of such a handler fall below the market average, he could re-enter the marketwide pool to draw from the equalization fund simply by reducing his sales designated as "special milk" below the 70-percent minimum. Again, producers of the "special milk" plant would share in the market pool's Class I sales at such times, but never would share their Class I sales with the other producers.

It should be further noted that the class and uniform prices to producers fixed by the order are minimums and that any value which should accrue to producers providing milk for special purposes may be bargained over and above the order level which is geared to providing an adequate supply of milk of generally acceptable market quality.

In view of the foregoing, the proposals for individual handler pools are denied.

(g) *Milk diverted from plants under another order.* When milk is diverted to a pool plant from a nonpool plant which is regulated under another order, provision should be made to preclude pooling the same milk under two orders. Contrariwise, provision should be made to preclude pooling milk which is diverted from a pool plant to another order plant and is subject to pooling under such other order.

The Southern Michigan order now provides for the allocation of milk transferred between pool plants and plants regulated under other orders. Order 40 does not set forth clearly, however, the status of a dairy farmer whose milk is diverted between a pool plant and a plant subject to regulation under a different order. Under bulk tank handling milk may be moved between order markets directly from farms, particularly along the southern border of Michigan where the production area is common to several regulated markets.

Two proposals were made to specify the producer status of a dairy farmer when his milk is received at a pool plant by diversion from an other order plant. One proposal, by certain cooperative associations, would assign such dairy farmer producer status when a greater quantity of his milk is delivered during the month to a Southern Michigan order distributing plant than is physically received at a distributing plant under the other order. It was testified that milk has been diverted from the Northwestern Ohio order market to a Southern Michigan order distributing plant and that the order should clearly specify whether such milk is to be treated as producer milk or as other source milk. It was proposed by the producer groups that producer status be automatic when a majority of the producer's milk is delivered to the Southern Michigan pool plant. Another proposal, made by a proprietary handler, would exempt from producer milk status any milk received by diversion from another order plant. Thus, the determining factor would be the limit placed on diversions pursuant to the other order. In this connection the handler witness cited the provisions of the Northwestern Ohio order which allow diversion of an individual producer's milk on all but four days of the month.

The allocation provisions of the Southern Michigan order provide that bulk milk received from another order plant can be designated Class II use by both handlers if so reported, otherwise such other source milk is allocated pro rata to the handler's utilization in the same manner as producer milk. No change in the allocation provision was at issue. However, this provision is relevant in determining whether milk received by diversion from another regulated market should be designated producer milk. In the event that such milk is diverted for intended Class II use it would be appropriate to exempt the milk from producer milk status as it may be the most convenient outlet for disposing of reserve supplies of the market from which diverted. However, in the event such milk is not specifically diverted for Class II use, some reasonable limit on the diversion as other source milk is appropriate. Otherwise, supplies which were historically associated with another market could be shifted to the Southern Michigan market on a direct-delivery basis in the same manner as the milk of regular producers without actually becoming producer milk.

A limit based upon majority shipment is reasonable since if more milk is shipped to Southern Michigan order pool plants than to plants under the other order, the primary association is with the Southern Michigan market. Such producer status should be based on the quantities of such milk which is delivered to all pool plants (exclusive of that milk for which Class II use is requested) rather than just distributing plants, since milk delivered to supply plants can be allocated to Class I use under some circumstances. However, since the provisions of a neighboring order would not necessarily exempt such milk from producer status thereunder even if otherwise subject to pooling in the Southern Michigan market, the provision should be constructed to preclude pooling producer milk under both the Southern Michigan order and another order at the same time. Consequently, if the other order does not release the milk for pooling under the Southern Michigan order, it must remain under the other order.

The present Southern Michigan and Muskegon orders place no limits on the amount of milk which may be diverted to nonpool plants during the month and retain status as pooled milk. There was no proposal and no evidence calling for a limitation on such shipments out of the market in excess of which the milk would lose its status as producer (pool) milk.

However, in the event diversion is made to a nonpool plant which is an other order plant, the milk should not be subject to pooling under both orders. In order to avoid duplication of regulation, it is provided in the consolidated order that milk diverted to an other order plant will lose its status as pool milk under the Southern Michigan order immediately upon becoming subject to pooling under the other order as producer milk as defined therein.

(h) *Administrative and miscellaneous provisions.* The maximum rate of administrative assessment under the consolidated order to cover administrative costs should be 2 cents per hundredweight. The maximum deduction to cover costs of marketing services to producers should be 5 cents per hundredweight. The above rates are the same as those in the present Southern Michigan order. Muskegon order maximums are 4 cents for administrative assessment and 7 cents for marketing services.

Administrative and marketing service costs per hundredweight of milk under the merged order should average about the same as under the present Southern Michigan order. This is so because present Southern Michigan order plants and producers will account for most of the milk in the market. About 95 percent of the producer milk under the consolidated order will be received at plants which are regulated by the present Southern Michigan order. A very high percentage of the producers for whom the market administrator will perform marketing services ship to these Southern Michigan plants also. While maximum administrative assessment and marketing service rates on milk which is now received at Muskegon order plants are somewhat higher than on milk under the Southern Michigan order, it is expected that in view of the substantially greater volumes involved under a combined order, the effective rates on such milk need not be higher than those provided in the present Southern Michigan 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. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

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

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

(d) 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

(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, 2 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(1) Producer milk (including milk of such handler's own production);

(2) Other source milk allocated to Class I pursuant to § 1040.46(a) (3) and (7) and the corresponding steps of § 1040.46(b); and

(3) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceed the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

Recommended marketing agreement and order amending the order. The following order amending and consolidating the order, as amended, regulating the handling of milk in the Southern Michigan and Muskegon, Mich., marketing areas (redefined therein as the "Southern Michigan marketing area") is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

Subpart—Order Regulating Handling

DEFINITIONS

AUTHORITY: The provisions of this Part 1040 issued under Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

DEFINITIONS

§ 1040.1 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.).

§ 1040.2 Secretary.

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

§ 1040.3 U.S.D.A.

"U.S.D.A." means the United States Department of Agriculture.

§ 1040.4 Person.

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

§ 1040.5 Cooperative association.

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

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

(b) To have full authority in the sale of milk of its members and is engaged

in making collective sales or marketing milk or its products for its members; and

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

§ 1040.6 Southern Michigan marketing area.

"Southern Michigan marketing area", hereinafter referred to as the "marketing area", means all territory geographically within the places listed below, together with all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory wholly or partly therein occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

MICHIGAN COUNTIES

Alcona.
Allegan.
Alpena.
Arenac.
Barry.
Bay.
Calhoun.
Clare.
Clinton.
Eaton.
Genesee.
Gladwin.
Gratiot.
Huron.
Ingham.
Ionia.
Iosco.
Isabella.
Jackson.
Kalamazoo.
Kent.
Lake.
Lapeer.
Livingston.
Macomb.
Mecosta.
Midland.
Mason.
Missaukee.
Monroe (Ash and Berlin townships only).
Montcalm.
Montmorency.
Muskegon.
Newaygo.
Oakland.
Ottawa.
Oceana.
Ogemaw.
Osceola.
Oscoda.
Presque Isle (Krakow and Presque Isle townships only).
Roscommon.
Saginaw.
St. Clair.
Sanilac.
Shiawassee.
Tuscola.
Washtenaw.
Wayne.

§ 1040.7 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its member producers which is delivered directly from the farm to the pool plant of another handler in a tank truck owned, operated by, or under contract to such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at a location identical to that of the pool plant to which it is delivered);

(d) Any cooperative association with respect to producer milk diverted from a pool plant to a nonpool plant for the account of such association;

(e) Any person in his capacity as the operator of an other order plant from which fluid milk products are distributed on routes in the marketing area or shipped to a pool plant; and

(f) Any producer-handler.

§ 1040.8 Producer.

"Producer" means any person, other than a producer-handler under any Federal order, who produces milk, approved by any duly constituted health authority for fluid consumption in the marketing area, which is moved to a pool plant, or to any other plant by diversion from a pool plant. The term shall include such a person with respect to milk diverted to a pool plant from an other order plant (unless designated for Class II use) during any month in which the quantity diverted is greater than the quantity of milk physically received from such person at the plant from which diverted and such milk is exempt from the pooling provisions of the other order.

§ 1040.9 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a dairy farm and a milk plant from which fluid milk products are distributed in the marketing area and who received fluid milk products only from his own production or by transfer from a pool plant; and

(b) Provides proof that (1) the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts by transfer from a pool plant); and (2) the operation of the processing business is the personal enterprise and risk of such person.

§ 1040.10 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk received from producers at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1040.7 (c) and (d) and that diverted to a nonpool plant by the operator of a pool plant, except milk which is subject to pooling under another Federal order.

§ 1040.11 Other source milk.

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

(a) Receipts during the month of fluid milk products except (1) receipts from other pool plants, and (2) producer milk (including that received from a cooperative association pursuant to § 1040.7 (c)); and

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

§ 1040.12 Fluid milk product.

"Fluid milk product" means milk, skim milk, flavored milk, buttermilk, yogurt, cream (exclusive of frozen and sour cream), and any mixture in fluid form of cream and milk or skim milk (except storage cream, aerated cream products, ice cream mix, evaporated or condensed milk and sterilized products packaged in hermetically sealed containers).

§ 1040.13 Route.

"Route" means a delivery (including a delivery by a vendor or sale from a plant or plant store) of any fluid milk product (except bulk cream) classified as Class I to a wholesale or retail outlet other than a delivery to any milk plant.

§ 1040.14 Distributing plant.

"Distributing plant" means a plant in which milk approved by any duly constituted health authority for fluid consumption in the marketing area is processed or packaged and from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area.

§ 1040.15 Supply plant.

"Supply plant" means a plant in which milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and either processed or shipped in the form of a bulk fluid milk product to another milk processing plant.

§ 1040.16 Pool plant.

"Pool plant" means:

(a) A distributing plant, other than a producer-handler plant or plants exempt pursuant to § 1040.90 and § 1040.91, from which total distribution of fluid milk products on routes during the month or during either of the 2 months immediately preceding is not less than 50 percent of receipts of producer milk and fluid milk products from supply plants and cooperative associations pursuant to § 1040.7(c) (exclusive of receipts certified by a cooperative association which operates no milk plant as having been diverted from other pool plants for manufacturing use in a volume which, with other like certifications issued by such association, does not exceed the volume of milk delivered to all pool distributing plants by producers who are members of such association);

(b) A supply plant which during the month meets one of the performance requirements specified in subparagraph (1), (2), (3), or (4) of this paragraph and any applicable call percentage: *Provided*, That all supply plants which are operated by one handler, or all the supply plants for which a handler is responsible for meeting the performance requirements of this paragraph (b) under a marketing agreement certified to the market administrator by both parties may be considered as a unit for the purpose of meeting the performance requirements of either subparagraphs (1), (2), (3), or (4) of this paragraph (b) upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. In any months of November through June a unit shall not contain plants which were not qualified as a pool plant either individually or as a member of a unit during the previous October through January.

(1) A plant from which not less than 25 percent or the call percentage, whichever is higher, of receipts of producer milk and receipts for which a cooperative association is the handler pursuant to § 1040.7(c), less any milk disposed of from the plant as Class I other than by transfer to pool plants of other handlers, is moved to a pool distributing plant. If such plant has met the required percentage during each of the months of October through January, it shall be a pool plant for each of the following months of February through September during which it meets any announced call percentage.

(2) A plant operated by a cooperative association which supplies pool distributing plants with member producer milk, either by shipment from such plant or by direct delivery from the farm, in a total amount not less than one-half or the call percentage, whichever is higher, of the aggregate receipts of fluid milk products at all pool distributing plants.

(3) A plant operated by a cooperative association which supplies pool distributing plants, either by shipment from such supply plant or by direct delivery from the farm, with not less than one-half or the call percentage, whichever is higher, of its total member producer milk.

(4) A plant operated by a cooperative association which supplies pool plants of other handlers, by direct delivery from the farm, with not less than two-thirds or the call percentage, whichever is higher, of its total member producer milk.

§ 1040.17 Call percentage.

"Call percentage" means the percentage computed by the market administrator to increase the minimum percentage pooling requirements applicable to supply plants and cooperative associations under § 1040.16(b). A call percentage of not less than 25 percent may be computed and announced for each month except April, May, June, and July as follows:

(a) Estimate the pounds of Class I milk utilization for the month, including an additional 15 percent thereof as an operating margin, at pool distributing plants that received milk from pool supply plants pursuant to § 1040.16(b) during each of the immediately preceding 12 months;

(b) Subtract from the Class I milk estimated pursuant to paragraph (a) of this section, the estimated pounds of milk which will be received at such pool distributing plants during the month from (1) producers' farms, (2) pool plants pursuant to § 1040.16(b) that regularly shipped their entire available supply of producer milk to such plants in each month of the immediately preceding August through March period, and (3) cooperative associations pursuant to § 1040.7(c);

(c) Divide the remaining pounds of Class I milk by the estimated receipts of producer milk at pool plants pursuant to § 1040.16(b) except those described in paragraph (b)(2) of this section (after subtracting any milk estimated to be disposed of as Class I other than transfers to other pool plants);

(d) Multiply the result by 0.75;

(e) The announcement of the call percentage shall be made on or before the first day of the month to which it applies and shall set forth the data on which the estimates of Class I utilization and supplies are based together with appropriate explanatory comments on the computations involved;

(f) The market administrator may reduce the call percentage at any time during the month if he determines that more milk than is needed for Class I use is being delivered to distributing plants.

§ 1040.18 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 class 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 and from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a fluid milk product approved by any duly constituted health authority for fluid consumption in the marketing area is shipped during the month to a pool plant.

§ 1040.19 Base milk.

"Base milk" means the amount of milk delivered by a producer each month which is not in excess of his base computed pursuant to § 1040.70 multiplied by the number of days for which his milk production is delivered during the month.

§ 1040.20 Excess milk.

"Excess milk" means milk delivered by a producer each month in excess of his base milk.

Market Administrator

§ 1040.25 Market administrator.

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 by, the Secretary.

§ 1040.26 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1040.27 Duties.

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

(a) Within 30 days following the date on which he enters upon his duties, 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 § 1040.86:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 1040.87, 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 in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, 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, within 10 days after the day upon which he is required to perform such acts, has not made:

(1) Reports pursuant to §§ 1040.30 and 1040.31; or

(2) Payments pursuant to §§ 1040.80 through 1040.87;

(g) Calculate a base for each producer in accordance with § 1040.70 and advise the producer and the handler receiving the milk of such base;

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

(i) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this part;

(j) Prepare and disseminate to producers, handlers and the public, general information which does not reveal confidential information; and

(k) Compute and publicly announce the prices determined for each month as follows:

(1) On or before the sixth day of each month, the Class I price computed pursuant to § 1040.51 for the current month; and the Class II price computed pursuant to § 1040.52 and the handler and producer butterfat differentials computed pursuant to §§ 1040.53 and 1040.82, for the preceding month; and

(2) On or before the 11th day of each month, the uniform price, the adjusted uniform price, the price for base milk and the price for excess milk for the preceding month, computed pursuant to §§ 1040.62, 1040.63, 1040.64, and 1040.65.

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1040.46(a)(8) and the corresponding step of § 1040.46(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;

(m) 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 § 1040.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) 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.

HANDLER REPORTS, RECORDS, AND FACILITIES

§ 1040.30 Monthly reports of receipts and utilization.

On or before the fifth working day of each month, each handler other than a handler exempt pursuant to §§ 1040.90, 1040.91, or 1040.92, shall report to the market administrator for the preceding month in the detail and on the forms prescribed by the market administrator as follows:

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

(1) Milk received from producers (or from qualified dairy farmers, in case of a nonpool plant) including the aggregate quantities of base milk, excess milk, and milk to be paid for either at the uniform or adjusted uniform price;

(2) Fluid milk products received from other pool plants;

(3) All other source milk; and

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

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section. Such report by each handler pursuant to § 1040.7(b) 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; and

(c) Such other information as the market administrator may prescribe.

§ 1040.31 Other reports.

(a) Each producer-handler and each handler described in §§ 1040.90 and 1040.91 shall make reports at such time and in such manner as the market administrator may request; and

(b) On or before the 20th day of each month each handler who received milk from producers shall report his producer payroll for the preceding month which shall show:

(1) The pounds of base milk and pounds of excess milk, or the pounds of milk to be paid for at the uniform or adjusted uniform price, received from each producer, and the percentage of butterfat contained therein;

(2) The amount and date of payment to each producer (or to a cooperative association); and

(3) The nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

§ 1040.32 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 all of his operations and such facilities as are necessary to verify reports, or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form; (b) the weights and tests for butterfat, skim milk, and other contents of all milk and milk products handled; and (c) payments to producers and cooperative associations.

§ 1040.33 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 month to which such books and records pertain. If within such 3-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1040.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received at a pool plant which is required to be reported pursuant to § 1040.30 shall be classified pursuant to §§ 1040.41 through 1040.46.

§ 1040.41 Classes of utilization.

Subject to the conditions set forth in §§ 1040.43 and 1040.44, 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 a fluid milk product except as provided in paragraph (b)(2), (3), and (4) of this section; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk and butterfat disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(3) Skim milk and butterfat disposed of as livestock feed or skim milk dumped subject to prior notification to an inspection (at his discretion within 18 hours) by the market administrator;

(4) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of fluid milk products prior to such addition;

(5) Skim milk and butterfat in frozen cream;

(6) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(7) Skim milk and butterfat, respectively, in shrinkage as computed pursuant to § 1040.42 (a) and (b); and

(8) Skim milk and butterfat, respectively, in shrinkage assigned pursuant to § 1040.42(d)(ii).

§ 1040.42 Shrinkage.

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

(a) The quantities of skim milk and butterfat, respectively, to be classified as Class II pursuant to § 1040.41(b)(7) shall not exceed 2 percent (except as provided in paragraph (b) of this section) with respect to skim milk and butterfat received as follows:

(i) Producer milk physically received at a pool plant;

(ii) Bulk receipts of fluid milk products from other order plants or from unregulated supply plants, exclusive of the quantities for which Class II was requested by the handler(s) involved.

(b) Two percent with respect to receipts from a cooperative association handler under § 1040.7(c) if settlement with the association is on the basis of weights and tests determined at the farm and the market administrator is so notified of such basis of settlement on or before the handler submits his monthly report pursuant to § 1040.30; otherwise the maximum shrinkage allowance to the handler on such milk shall be 1½ percent and to the association handler one-half percent.

(c) In computing shrinkage, producer milk received at a pool supply plant and transferred in bulk from such plant to a pool distributing plant shall be subtracted from the producer milk receipts at the first plant and added to the producer milk receipts at the second plant.

(d) When a handler has receipts of other source milk, shrinkage shall be allocated pro rata to skim milk and butterfat, respectively, in:

(i) Producer milk and other receipts of milk specified in paragraphs (a) and (b) of this section; and

(ii) Other source milk exclusive of that specified in paragraph (a) of this section.

§ 1040.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another han-

dler except as provided in § 1040.44(b), 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 § 1040.46(a) (1) through (8) and the corresponding steps of § 1040.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1040.46(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; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1040.46(a) (7) or (8) and the corresponding steps of § 1040.46(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;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in the form of cream in bulk to a nonpool plant that is neither another order plant nor a producer-handler plant unless the handler claims Class II utilization and such nonpool plant is located in Pennsylvania, New Jersey, New York, or New England;

(d) Except as provided in paragraph (c) of this section, Class I milk if transferred or diverted in bulk to a nonpool plant this is neither another 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 § 1040.30 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 for the purpose of verification; 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 Class I utilization disposed of on routes 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, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes 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, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivision (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants;

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (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 other 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 another order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1040.41.

§ 1040.44 Responsibility of handlers.

(a) Except as provided in paragraph (b) of this section, all skim milk and butterfat shall be classified as Class I utilization unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Milk in bulk delivered by a cooperative association as a handler under § 1040.7(c) or from the pool plant of a cooperative association to a handler's pool plant shall be classified according to use or disposition by the latter handler and the value thereof at the class prices shall be included in his net pool obligation pursuant to § 1040.60.

§ 1040.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors in the monthly report submitted by each handler, and compute the total pounds of skim milk and butterfat, respectively, in Class I and Class II utilization for such handler. 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 milk solids contained in such product, plus all of the water normally associated with such solids in the form of whole milk.

§ 1040.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1040.45, the market administrator shall determine for each handler the classification of producer milk and milk received pursuant to § 1040.44(b) 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 § 1040.41(b)(7);

(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 a fluid milk product;

(ii) Receipts of fluid milk products that are not approved by a duly constituted health authority for fluid consumption in the marketing area 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, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from a cooperative association pursuant to § 1040.7(c), receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from another order plant in excess of similar transfers to such plant, 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) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4) (ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1040.27(i) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(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 according to the classification assigned pursuant to § 1040.43(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in product 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 such milk in each class.

MINIMUM CLASS PRICES

§ 1040.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S.D.A. for the month. Such price shall be 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 simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the U.S.D.A. for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1040.51 Class I milk price.

Subject to the provisions of §§ 1040.53 and 1040.54, the minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month which is classified as Class I milk shall be as follows:

(a) To the basic formula price for the preceding month add $1.40 and add or subtract a "supply-demand adjustment" of not more than 45 cents computed pursuant to paragraph (b) of this section.

(b) A "supply-demand adjustment" shall be computed for the month as follows:

(1) Divide the total pounds of producer milk for the second and third months next preceding by the total pounds of Class I milk for the same months, multiply the result by 100 and round to the nearest whole number. Such receipts and utilization data for months prior to the effective date of this part to be used for such computation shall be those established for handlers and pool plants pursuant to the provisions of the prior Southern Michigan and Muskegon orders. The result shall be known as the "current utilization percentage."

(2) Multiply by $0.03 the number of percentage points that the "current utilization percentage" is above (add) or below (subtract) the applicable standard utilization percentage listed below:

Month for which pricing is being computed	Preceding months used in computation	Standard utilization percentage
January	October, November	131
February	November, December	135
March	December, January	134
April	January, February	132
May	February, March	133
June	March, April	135
July	April, May	141
August	May, June	147
September	June, July	143
October	July, August	139
November	August, September	138
December	September, October	133

§ 1040.52 Class II milk price.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month which is classified as Class II milk shall be the basic formula price for the month: *Provided*, That such Class II price shall not be more than the sum of paragraphs (a) and (b) of this section plus 10 cents, rounded to the nearest cent:

(a) From the average Chicago butter price for the month described in § 1040.50 subtract 3 cents and multiply the remainder by 4.2; and

(b) From the weighted average of carlot prices per pound of spray process, nonfat dry milk for human consumption, f.o.b., manufacturing plants in the Chicago area, as published from the 26th day of the immediately preceding month to the 25th day of the current month by the U.S.D.A., deduct 5.5 cents, and multiply by 8.2.

§ 1040.53 Handler butterfat differential.

There shall be added to or subtracted from, the price of milk for each class as computed pursuant to §§ 1040.51 and 1040.52, for each one-tenth of 1 percent that the average butterfat test of the milk in each class above or below 3.5 percent, as the case may be, an amount equal to the average Chicago butter price for the month as described in § 1040.50 multiplied by 0.113 and the result rounded to the nearest one-tenth of a cent.

§ 1040.54 Location adjustments to handlers.

(a) For producer milk received at a pool plant and classified as Class I milk without movement to another pool plant and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1040.51 shall be reduced pursuant to subparagraph (1) or (2) of this section on the basis of the applicable rate per hundredweight for the location of such plant.

(1) *Zone rates.* For a plant located within the following described territory, the applicable zone rates shall be as follows:

MICHIGAN COUNTIES

Zone I—No adjustment:

Genesee.
Oakland.
Macomb.
Wayne.
Monroe.
St. Clair (except Berlin, Riley, Mussey, Emmett, Lynn, Brockway, Greenwood, Grant, and Burtchville townships).
Washtenaw (except Manchester, Bridgewater, Sharon, Freedom, Sylvan, Lima, Lyndon, and Dexter townships).
Saginaw (except Jonesfield, Richland, Lakefield, Fremont, Marion, Brant, Chapin, Brady, Chesaning, and Maple Grove townships).
Bay (except Gibson, Mt. Forest, Pinconning, Garfield, and Fraser townships).

Zone II—3 cents:

Ingham.
Livingston.
Jackson.
Lenawee.
Lapeer.
Washtenaw (all the townships excluded from Zone I).
St. Clair (all the townships excluded from Zone I).
Sanilac (except Greenleaf, Austin, Minden, Delaware, Evergreen, Argyle, Wheatland, Marion, Forester, Lamotte, Moore, Custer, and Bridgehampton townships).

Tuscola (except Denmark, Juniata, Indianfields, Wells, Kingston, Gilford, Fairgrove, Almer, Ellington, Novesta, Wisner, Akron, Columbia, Elmwood, and Elkland townships).

Zone III—5 cents:

Huron.
Sanilac (all the townships excluded from Zone II).
Tuscola (all the townships excluded from Zone II).
Arenac.
Bay (all the townships excluded from Zone I).
Gladwin.
Midland.
Isabella.
Montcalm (except Reynolds, Winfield, Cato, Belvidere, Pierson, Maple Valley, Pine, Douglass, Montcalm, Sidney, Eureka, and Fairplain townships).
Gratiot.
Saginaw (all the townships excluded from Zone I).
Clinton.
Shiawassee.
Ionia (except Otisco, Orleans, Keene, Easton, Boston, Berlin, Campbell, and Odessa townships).
Eaton.
Calhoun (except Bedford, Pennfield, Battle Creek, Emmet, LeRoy, Newton, Athens, and Burlington townships).
Branch (except Sherwood, Union, Matteson, Batavia, Bronson, Bethel, Noble, and Gilead townships).
Hillsdale.

Zone IV—7 cents:

St. Joseph.
Branch (all the townships excluded from Zone III).
Calhoun (all the townships excluded from Zone III).
Kalamazoo.
Barry.
Ionia (all the townships excluded from Zone III).
Kent.
Montcalm (all the townships excluded from Zone III).
Mecosta.

Zone V—9 cents:

Berrien.	Lake.
Cass.	Osceola.
Van Buren.	Clare.
Allegan.	Missaukee.
Ottawa.	Roscommon.
Muskegon.	Ogemaw.
Newaygo.	Iosco.

Zone VI—12 cents:

Alcona.	Wexford.
Oscoda.	Manistee.
Crawford.	Mason.
Kalkaska.	Oceana.
Grand Traverse.	

Zone VII—15 cents:

Alpena.	Benzie.
Montmorency.	Charlevoix.
Otsego.	Emmet.
Antrim.	Cheboygan.
Leelanau.	Presque Isle.

(2) *Mileage rate.* For any plant at a location outside the territory specified in the preceding paragraph (a)(1), the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest point in such territory as determined by the market administrator, and shall be the amount of the zone differential applicable at such point plus one cent for each 10 miles or fraction thereof from such point.

(b) For fluid milk products transferred in bulk from a pool plant to a pool plant described in § 1040.16(a), the operator of the transferee plant shall receive credit at the applicable zone or mileage rate, based on the location of the transferor plant. The total volume on which such credit is computed shall be limited to the amount by which 108 percent of Class I disposition at the transferee plant is in excess of the sum of receipts at such plant (1) from producers, (2) from cooperative associations pursuant to § 1040.7(c), and (3) from other order plants and unregulated supply plants which are assigned in Class I, such assignment of receipts from the transferor plant to be pro rata to receipts of fluid milk products from all transferor pool plants.

§ 1040.55 Use of equivalent prices.

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

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1040.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of milk in each class, as computed pursuant to § 1040.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1040.46(a)(10) and the corresponding step of § 1040.46(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 § 1040.46(a)(5) and the corresponding step of § 1040.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(3) and the corresponding step of § 1040.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(7) and the corresponding step of § 1040.46(b).

§ 1040.61 Computation of the 3.5 percent value of all milk.

For each month the market administrator shall compute the 3.5 percent value of all milk by:

(a) Combining into one total the individual values of milk of all handlers computed pursuant to § 1040.60;

(b) Adding if the weighted average butterfat test of all milk represented in paragraph (a) of this section is less than 3.5 percent, or subtracting if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 1040.82 multiplied by 10;

(c) Adding the aggregate of the values of the applicable location adjustments pursuant to § 1040.81(a)(1); and

(d) Adding not less than one-half of the unobligated balance in the producer-equalization fund.

§ 1040.62 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1040.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1040.60(e); and

(b) Subtract not less than 6 nor more than 7 cents from the price computed pursuant to paragraph (a) of this section.

§ 1040.63 Adjusted uniform price.

For the purpose of payments pursuant to § 1040.70(c) the uniform price computed pursuant to § 1040.62 shall be adjusted by deducting therefrom 25 percent of the difference between the uniform price and the excess milk price, rounded to the nearest cent.

§ 1040.64 Excess milk price.

For each month, the excess price shall be the price of Class II utilization, determined pursuant to § 1040.52, rounded to the nearest cent.

§ 1040.65 Computation of uniform price for base milk.

(a) Multiply the total pounds of excess milk for the month by the excess milk price;

(b) Multiply the total amount of milk to be paid for at the uniform price pursuant to § 1040.70 (d) and (f) by the uniform price for the month;

(c) Multiply the total amount of milk to be paid for at the adjusted uniform price pursuant to § 1040.70(c) by the adjusted uniform price for the month;

(d) Subtract the total values arrived at in paragraphs (a), (b), and (c) of this section and § 1040.84(b)(2) from the total 3.5 percent value of all producer milk arrived at in § 1040.61;

(e) Divide the resultant value by the total hundredweight of base milk; and

(f) Subtract not less than 6 cents or more than 7 cents. The resultant hundredweight price shall be the uniform price of base milk of 3.5 percent butterfat content.

§ 1040.66 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-equalization fund on or before the 25th days 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 § 1040.30 the information necessary to compute the amount specified in paragraph (a) of this section, 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 § 1040.60 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 uniform 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 § 1040.60(e) and a credit in the amount specified in § 1040.84(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 report pursuant to § 1040.30 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 § 1040.16(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 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 for an amount of milk equivalent to that received from such supply plant, and (ii) any payment 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 on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the act) 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;

(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 uniform price pursuant to § 1040.62 at the same location or at the Class II price, whichever is higher.

§ 1040.67 Notification.

On or before the 12th day after the end of each month the market administrator shall notify each handler of:

(a) The amounts and values of his milk in each class and the total of such amounts and values;

(b) The base of any producer delivering milk to the handler which was not used in making payments for the previous month;

(c) The amount due such handler from the producer-equalization fund or the amount to be paid by such handler to the producer-equalization fund, as the case may be; and

(d) The totals of the minimum amounts to be paid by such handler pursuant to §§ 1040.80, 1040.84, 1040.86, 1040.87, and 1040.88.

Base Rules

§ 1040.70 Determination of base.

(a) A producer who delivered milk on at least 122 days during the period August 1 through December 31, inclusive, of any year shall have a base computed by the market administrator to be applicable, subject to § 1040.72, for the 12-month period beginning the following February 1, equal to his daily average milk delivers from the date on which milk was first delivered in the period to the end of such August 1–December 31 period: *Provided*, That a producer who had a base on December 1 and whose average of daily deliveries for the August 1–December 31 period is less than such base shall have a base computed by subtracting from his previous base any amount by which 90 percent of his previous base exceeds such average of daily deliveries;

(b) A producer with an established base who does not forfeit his base pursuant to § 1040.71(c) but who fails to deliver milk on at least 122 days of the August 1 through December 31 period shall have his base for the 12 months beginning the following February 1 computed by dividing the total pounds shipped during the period by 122;

(c) Except as provided in paragraphs (d), (e), and (f) of this section a producer who has no base shall be paid until February 1 following the August–December period within which he establishes a base pursuant to paragraph (a) of this section at the adjusted uniform price computed pursuant to § 1040.63;

(d) Whenever total receipts of producer milk by all handlers during the month are less than 112.5 percent of the total Class I utilization of all milk by handlers during such month, all producers and cooperative associations shall be paid the uniform price for all milk delivered;

(e) When a plant first becomes a pool plant pursuant to § 1040.16(a) bases for producers delivering to such plant may be established on the basis of deliveries of milk to such plant for the preceding August–December period certified by submission of delivery receipts or other evidence satisfactory to the market administrator, except the base of a producer applicable pursuant to part 1042 in the month immediately preceding the effective date of this paragraph shall be his base pursuant to this section through January 1, 1966; and

(f) Producers without an established base who are delivering milk to plants during the month that such plants first become pool plants as a result of redefinition of the marketing area may elect to be paid until February 1, following the first August 1–December 31 period after such redefinition of the marketing area, at the uniform price computed pursuant to § 1040.62.

§ 1040.71 Application of bases.

(a) A base shall apply to deliveries of milk by the producer for whose account milk was delivered during the base period, and upon death may be transferred to a member or members of the deceased producer's immediate family;

(b) Bases may be transferred under the following conditions upon written notice by the holder of the base to the market administrator on or before the last day of the month that such base is to be transferred;

(1) Upon retirement or entry into military service of a producer, the entire base may be transferred to a member or members of his immediate family;

(2) Bases may be held jointly and if such joint holding is terminated the base may be divided among the joint holders as specified in writing to the market administrator; and

(3) Two or more producers with bases may combine those bases upon the formation of a bona fide partnership; and

(c) A producer who does not deliver milk to any handler for 45 consecutive days shall forfeit his base except that the following producers may retain their bases without loss for 12 months:

(1) A producer who suffers the complete loss of his barn as a result of fire or windstorm; or

(2) A producer for whom loss of 50 percent or more of the milk herd from brucellosis or bovine tuberculosis, is shown by evidence issued under State or Federal authority.

§ 1040.72 Relinquishing a base.

A producer with a base, by notifying the market administrator that he relinquishes such base, may be paid pursuant to the provisions of § 1040.70(c) applicable to a producer without a base beginning with the first day of the month in which such notification is received by the market administrator.

Payments for Milk

§ 1040.80 Time and method of payment to producers.

(a) Except as provided by paragraph (b) of this section, on or before the 15th day of each month, each handler (except a cooperative association) shall pay

each producer for milk received from him during the preceding month, not less than an amount of money computed by multiplying the total pounds of such milk by the applicable uniform prices computed pursuant to §§ 1040.62, 1040.63, 1040.64, or 1040.65 adjusted by the location and butterfat differentials pursuant to §§ 1040.81 and 1040.82 less the payment made pursuant to paragraph (d) of this section and any proper deductions authorized by the producer. If by such date such handler has not received full payment for such month pursuant to § 1040.85 he may reduce such payments uniformly per hundredweight for all producers, by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator;

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the second day prior to the end of the month an amount equal to the payments authorized pursuant to paragraph (d) of this section, and on or before the 13th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all such milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer.

(1) Each handler shall submit to the cooperative association written information on or before the sixth working day of each month which shows for each such member-producer:

(i) The total pounds of milk received from him during the preceding month;

(ii) The total pounds of butterfat contained in such milk;

(iii) The number of days on which milk was received; and

(iv) The amounts withheld by the handler in payment for supplies sold.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler shall be made by written notice to the market administrator, and shall be subject to his determination;

(3) The foregoing payment and the submission of information pursuant to subparagraph (1) of this paragraph, shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

(c) On or before the 13th day after the end of each month, each handler shall pay a cooperative association, which is a handler with respect to milk received by him from a pool plant operated by such cooperative association, or by bulk tank delivery pursuant to § 1040.7(c), not less than an amount computed by multiplying the uniform price for base milk subject to the location adjustment, if any, applicable at the transferee plant as provided by § 1040.81 and the butterfat differential provided by § 1040.82, by the total hundredweight of milk received by such handler from the cooperative association.

(d) On or before the last day of each month for producer milk received during the first 15 days of the month at not less than the Class II milk price for the preceding month.

§ 1040.81 Location differentials to producers and on nonpool milk.

(a) Subject to the conditions of paragraph (b) of this section, in making payments to producers or cooperative associations pursuant to § 1040.80 each handler:

(1) May deduct for base milk and milk to be paid for at the uniform price or adjusted uniform price the rate per hundredweight applicable pursuant to § 1040.54(a) (1) or (2) for the location of the plant at which the milk was first physically received;

(2) Shall add not less than 4 cents per hundredweight with respect to milk received from producers and cooperative associations pursuant to § 1040.7(c) at a pool plant located within the townships of Royal Oak and Southfield and Oakland County and in those portions of Wayne County other than the townships of Northville, Plymouth, Canton, Van Buren, Sumpter, Livona, Nankin, Romulus, Huron, Taylor, Brownstown, Monguagon, and Grosse Isle, all in the State of Michigan.

(b) When milk of an individual producer is physically received at more than one location (including any nonpool plant) during the month, the location differential rate shall be the weighted average (rounded to the nearest one-half cent) of the amounts computed for the respective locations, except that if 65 percent or more of such producer's milk is delivered to a plant or plants at which the same rate is applicable, such rate shall be applicable to all deliveries of such producer during the month regardless of point of delivery.

(c) For purposes of computation pursuant to § 1040.84 and § 1040.85, the uniform price shall be adjusted at the rates set forth in § 1040.54 applicable at the location of the nonpool plant from which the other source milk was received.

§ 1040.82 Producer butterfat differential.

In making payments pursuant to § 1040.80, the base price and excess price or the uniform prices shall be increased or decreased for each one-tenth of 1 percent of butterfat content that the milk received from each producer or a cooperative association is above or below 3.5 percent, as the case may be, by the butterfat differential computed under § 1040.53 rounded to the nearest one-half cent.

§ 1040.83 Producer-equalization fund.

The market administrator shall establish and maintain a separate fund, known as the "producer-equalization fund" into which he shall deposit all payments received pursuant to §§ 1040.66 and 1040.84 and out of which he shall make all payments pursuant to § 1040.85.

§ 1040.84 Payments to the producer-equalization fund.

On or before the 13th 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 sum of:

(1) The net pool obligation computed pursuant to § 1040.60 for such handler; and

(2) In the case of a cooperative association which is a handler, the value, at the uniform price for base milk, of milk delivered to other handlers pursuant to § 1040.44(b).

(b) The sum of:

(1) The value of such handler's producer milk as specified in § 1040.80, excluding any applicable location differential pursuant to § 1040.81(a)(2); and

(2) The value at the uniform 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 § 1040.60 (e).

§ 1040.85 Payments from the producer-equalization fund.

On or before the 14th 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 § 1040.84(b) exceeds the amount computed pursuant to § 1040.84(a). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-equalization fund is insufficient to make all payments to all handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1040.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the

end of the month 2 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including milk of such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1040.46(a) (3) and (7) and the corresponding steps of § 1040.46(b); and

(c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1040.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 1040.80(a) for milk received from each producer (including milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him;

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, for which payment is not made pursuant to § 1040.80 (b) or (c), and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 1040.80 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

§ 1040.88 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler;

(b) To such handler from the market administrator; or

(c) To any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred, following the fifth day after such notice.

§ 1040.89 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1040.84, 1040.85, 1040.86, 1040.87, and 1040.88 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

APPLICATION OF PROVISIONS

§ 1040.90 Handler exemption.

A handler who operates a plant, other than a plant described in § 1040.16(b), located outside the marketing area from which fluid milk products are disposed of within the marketing area on a route(s) but from which the disposition of fluid milk products on all routes operated wholly or partly within the marketing area averages less than 600 pounds per day for the month, and from which no milk is transferred to other handlers, shall be exempt for such month from all provisions of this part except §§ 1040.31, 1040.32, and 1040.33.

§ 1040.91 Handlers subject to other Federal orders.

A handler who operates a plant at which during the month milk is fully subject to the classification, pricing, and payment provisions of another marketing agreement or order issued pursuant to the act and the disposition of fluid milk products in the other Federal marketing area exceeds that in the Southern Michigan marketing area shall be exempt for such month from all provisions of this part except §§ 1040.31, 1040.32, and 1040.33.

§ 1040.92 Producer-handler exemption.

A producer-handler shall be exempt from all provisions of this part except §§ 1040.31, 1040.32, and 1040.33.

§ 1040.93 Special reporting dates.

When a holiday prevents normal business activities on any day except Sunday during the first 15 days of the month, those of the dates specified in §§ 1040.27 (k)(2), 1040.30, 1040.31(b), 1040.66, 1040.80, 1040.84, 1040.85, 1040.86, and 1040.87 which follows such holiday shall be postponed by the number of days lost as a result of such holiday.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1040.100 Termination of obligations.

(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 2 years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

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

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or association, 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 or records required by this order 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 month following the month during which 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 month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

§ 1040.101 Effective time.

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

§ 1040.102 Suspension or termination.

The Secretary shall, whenever he finds that this part, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this part or any such provision thereof.

§ 1040.103 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.

§ 1040.104 Liquidation.

Under the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or

control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1040.110 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.

§ 1040.111 Separability of provisions.

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

Signed at Washington, D.C., on April 27, 1965.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 65-4591; Filed, Apr. 30, 1965; 8:45 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 39]

[Docket No. 6613]

AIRWORTHINESS DIRECTIVES

Curtiss-Wright Model C-46 Series Aircraft

The Federal Aviation Agency is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Curtiss-Wright Model C-46 Series aircraft. There have been erroneous indications by gear-down latch warning lights on Curtiss-Wright Model C-46 Series aircraft indicating the landing gear was down and locked. Since this condition is likely to exist or develop in other aircraft of the same type design, the proposed AD would require modification of the gear position warning light system on C-46 aircraft.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before May 31, 1965, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 (14 CFR Part 39), by adding the following airworthiness directive:

CURTISS-WRIGHT. Applies to Model C-46 Series aircraft.

Compliance required within the next 300 hours' time in service after the effective date of this AD unless already accomplished.

To prevent further erroneous indication by the gear position warning light that the landing gear is down and locked, accomplish the following:

Modify the gear position warning light system by providing a separate position indication circuit and separate green light or other equivalent indicator for the "down and locked" position for each of the three landing gears in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

Issued in Washington, D.C., on April 27, 1965.

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

[F.R. Doc. 65-4580; Filed, Apr. 30, 1965; 8:45 a.m.]

[14 CFR Part 67]

[Docket No. 6614; Notice 65-10]

SPECIAL ISSUE OF MEDICAL CERTIFICATE

Proposed Special Medical Flight, Practical Test or Medical Evaluation

The Federal Aviation Agency is considering amending Part 67 of the Federal Aviation Regulations to make clear that the Federal Air Surgeon has authority to decide whether a special medical flight or practical test or special medical evaluation should be conducted or the applicant's operational experience considered under § 67.19 and, if so, to prescribe which of these procedures should be used, in the determination of whether a medical certificate should be issued to an applicant who does not meet the applicable medical standards of that part.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before June 30, 1965, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 29.5 of the Civil Air Regulations, now recodified as § 67.19 of the Federal Aviation Regulations, received its present content by Amendment 29-2 effective October 15, 1959. It has been the Agency's position that the Federal Air Surgeon (formerly the Civil Air Surgeon) has the authority under this section to decide whether a special medical flight or practical test or special medical evaluation should be conducted or the applicant's operational experience considered and, if so, to prescribe the particular available procedure that is used in the determination of whether an applicant who does not meet the applicable medical standards of Part 67 can nevertheless perform the duties of his airman certificate without endangering safety in air commerce. However, under the current language of the rule, interpretative and administrative problems have occurred as to whether, under the regulations, the Federal Air Surgeon has authority in these two respects.

Situations arise in which the Federal Air Surgeon may determine that the applicant could not satisfactorily show, by any of the available special procedures, ability to perform the duties of an airman certificate without endangering safety in air commerce. Examples are situations in which there is leukemia or disseminated cancer. In such a case, the resort to any of these procedures would not be purposeful, and the Federal Air Surgeon should have authority under § 67.19 to refuse their use.

Where the Federal Air Surgeon does prescribe special medical flight or practical testing or special medical evaluation under § 67.19, the selection of the particular procedure to be used, of those named, essentially is an element of the medical determination by the Federal Air Surgeon whether the applicant can properly exercise the privileges of his airman certificate despite his physical deficiency. This selection should repose, not in the applicant, but in the Federal Air Surgeon because of his special qualifications and the facilities available to him to obtain and assess medical information about an applicant's total medical status.

In some situations a special medical flight or practical test, alone or in conjunction wtih operational experience, permits a useful demonstration of what the applicant is capable of doing as a pilot despite his physical deficiency. Thus, a flight test would be appropriate, for example, for an airman with an amputated leg. A practical test would be appropriate for an airman with a static defect for which compensation can be demonstrated in a parked aircraft as well as in flight.

In other situations, however, for example one involving blood pressure in excess of that permitted by the applicable medical standard of Part 67, the Federal Air Surgeon may consider that neither of these tests will reliably demonstrate the applicant's capability. In such a case a special medical evaluation is appropriate, alone or in conjunction with operational experience. Similarly, the Federal

Air Surgeon in some instances has considered that a proper appraisal required a special medical evaluation in the form of an ophthalmological examination, and not a flight or practical test, in order to affirm or disaffirm his measurement of the extent of the defect in distant visual acuity, and to ascertain whether there is pathology of the eyes not evident from the routine examination.

The proposed amendment would clarify paragraph (a) of § 67.19 to assure that the Federal Air Surgeon has the authority to exercise the indicated discretion.

Paragraph (a) of § 67.19 currently refers to special practical testing, flight testing, "or as otherwise required," as the available procedures (in addition to operational experience) for the determination of whether a medical certificate may be specially issued under that section. The term "special medical evaluation" would be substituted for the phrase "as otherwise required" by the proposed amendment, to clarify the contextual meaning intended.

In consideration of the foregoing, it is proposed to amend paragraph (a) of § 67.19 of Part 67 of the Federal Aviation Regulations to read as follows:

§ 67.19 Special issue: operational limitations.

(a) A medical certificate of the appropriate class may be issued to an applicant who does not meet the medical standards of this Part, under the following procedures:

(1) The Federal Air Surgeon may in his discretion find that a special medical flight or practical test, or special medical evaluation, should be conducted to determine whether the applicant can perform his duties under the airman certificate he holds, or for which he is applying, in a manner that will not endanger safety in air commerce during the period the certificate would be in force. Upon such a finding, the Federal Air Surgeon authorizes the conduct of that test or evaluation. The Federal Air Surgeon may also consider the applicant's operational experience for this purpose.

(2) If the Federal Air Surgeon authorizes a procedure under subparagraph (1) of this paragraph, the applicant must show to the satisfaction of the Federal Air Surgeon, by the prescribed procedure, that he can perform those duties in the manner refered to in subparagraph (1). Upon such a showing, the Federal Air Surgeon issues to the applicant a medical certificate of the appropriate class.

* * * * *

This amendment is proposed under the authority of sections 313(a), 314, 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, 1421, 1422).

Issued in Washington, D.C., on April 23, 1965.

M. S. WHITE,
Federal Air Surgeon.

[F.R. Doc. 65-4581; Filed, Apr. 30, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 63-EA-113]

CONTROL ZONES AND TRANSITION AREAS

Proposed Alteration and Designation

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations that would alter control zones and designate transition areas at the Long Island, N.Y., terminal complex.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: 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 of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Agency, having completed a comprehensive review of the terminal airspace structure requirements in the Long Island, N.Y., terminal area, including studies attendant to the implementation of the provisions of CAR Amendments 60-21/60-29, proposes the airspace actions hereinafter set forth.

1. The Westhampton Beach, N.Y., control zone would be redescribed as that airspace within a 5-mile radius of Suffolk County AFB (latitude 40°50'40" N., longitude 72°37'45" W.) and within 2 miles each side of the Suffolk AFB TACAN 039° and 229° True radials extending from the 5-mile radius zone to 7 miles northeast and 7 miles southwest of the TACAN.

2. The Islip, N.Y., control zone would be redescribed as that airspace within a 5-mile radius of Long Island Airport, Islip, N.Y., (latitude 40°47'50" N., longitude 73°06'00" W.); and within 2 miles each side of the Long Island Airport ILS localizer southwest course, extending from the 5-mile radius zone to 7 miles southwest of the outer marker.

3. The Calverton, N.Y., control zone would be redescribed as that airspace within a 5-mile radius of Peconic River Airport (latitude 40°54'55" N., longitude 72°47'35" W.) and within 2 miles each side of the Riverhead VORTAC 079° True radial extending from the 5-mile radius zone to 12.5 miles east of the VORTAC, excluding the portion within the Suffolk County AFB control zone, Westhampton Beach, N.Y. This control zone would be effective from 0800-2400 hours, local time, Monday through Friday.

4. The Westhampton Beach, N.Y., transition area would be designated as that airspace extending upward from 700 feet above the surface within an 8-mile radius of Suffolk County Air Force Base (latitude 40°50'40" N., longitude 72°37'45" W.); within 5 miles west and 8 miles east of the Suffolk AFB ILS localizer northeast course extending from the Suffolk radio beacon to 12 miles northeast of the radio beacon; and within 5 miles west and 8 miles east of the Suffolk TACAN 039° True radial extending from the TACAN to 12 miles northeast of the TACAN.

5. The East Hampton, N.Y., transition area would be designated as that airspace extending upward from 700 feet above the surface within a 6-mile radius of East Hampton Airport (latitude 40°-57'36" N., longitude 72°15'05" W.); and within 2 miles each side of the Hampton VOR 231° True radial extending from the 6-mile radius area to 8 miles southwest of the VOR.

6. The Islip, N.Y., transition area would be designated as that airspace extending upward from 700 feet above the surface within a 7-mile radius of Long Island Airport (latitude 40°47'50" N., longitude 73°06'00" W.); and within 2 miles each side of the Long Island Airport localizer southwest course extending from the 7-mile radius area to 8 miles southwest of the outer marker.

7. The Babylon, N.Y., transition area would be designated as that airspace extending upward from 700 feet above the surface within an 8-mile radius of Republic Airport, Farmingdale, N.Y., (latitude 40°43'45" N., longitude 73°24'50" W.); within 2 miles each side of the 155° True bearing from the Babylon radio beacon extending from the Republic Airport 8-mile radius area to 8 miles south of the radio beacon; within 2 miles each side of the 165° True bearing from the Babylon radio beacon extending from the Republic Airport 8-mile radius area to 8 miles south of the radio beacon; and within an 8-mile radius of Grumman Bethpage Airport, Bethpage, N.Y. (latitude 40°44'46" N., longitude 73°29'36" W.); within a 5-mile radius of Deer Park Airport, Deer Park, N.Y. (latitude 40°45'31" N., longitude 73°18'35" W.); and within 2 miles each side of the Deer Park VORTAC 007° True radial extending from the 5-mile radius area to 8 miles north of the VORTAC, excluding the portion within the Islip, N.Y., and New York, N.Y., transition areas.

8. The Calverton, N.Y., transition area would be designated as that airspace extending upward from 700 feet above the surface within an 8-mile radius of Peconic Airport (latitude 40°54'55" N., longitude 72°47'35" W.), excluding the portion within the Westhampton Beach, N.Y., transition area.

9. The Riverhead, N.Y., transition area would be designated as that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 41°00'35" N., longitude 72°05'00" W.; thence south via longitude 72°05'00" W. to the south boundary of V–139; thence southwest via the southeast boundary of V–139 to latitude 40°30'00" N., thence to latitude 40°30'-00" N., longitude 73°36'00" W.; to latitude 40°41'00" N., longitude 73°33'30" W.; to latitude 40°50'00" N., longitude 73°42'00" W.; to latitude 41°00'00" N., longitude 73°33'00" W.; to latitude 41°-00'00" N., longitude 72°45'00" W.; to latitude 41°18'00" N., longitude 72°30'-30" W.; to the point of beginning, excluding the portion below 3,000 feet m.s.l. within W–106.

The control zones and extensions and the transition areas and extensions, as proposed, are necessary to protect approach, departure, and missed approach procedures as well as holding patterns for the Long Island, N.Y., terminal area complex.

Certain minor revisions to prescribed instrument procedures would be effected in conjunction with the actions proposed herein, but operational complexities would not be increased nor would aircraft performance characteristics or present landing minimums be adversely affected.

Specific details of the changes to procedures and minimum instrument flight rule altitudes that would be required may be examined by contacting the Chief, Airspace Utilization Branch, Air Traffic Division, Eastern Region, Federal Aviation Agency, John F. Kennedy International Airport, Federal Building, Jamaica, N.Y., 11430.

These amendments are proposed under secs. 307(a) and 1110 (49 U.S.C. 1348 and 1510), and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on April 26, 1965.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65–4582; Filed, Apr. 30, 1965; 8:45 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

FLUE-CURED TOBACCO

Notice of Special Referendum

Notice is hereby given that on May 4, 1965, a special referendum will be held of farmers engaged in the production of flue-cured tobacco of the 1964 crop, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, (7 U.S.C. 1281 et seq.) and as further amended by Public Law 89-12 (79 Stat. 66), approved April 16, 1965. Notice that consideration would be given to establishing a date for holding such special referendum was given and published in the FEDERAL REGISTER (30 F.R. 5641). The views and recommendations received pursuant to such notice have been considered within the limits permitted by the Act. The purpose of the special referendum is to determine whether the farmers voting favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in section 317 of such act for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967. In lieu of the quotas on an acreage basis in effect for those marketing years. The special referendum will be conducted in accordance with the provisions of the Act and the Regulations Governing the Holding of Referenda on Marketing Quotas (28 F.R. 13249), including any amendments made prior to the referendum.

In order that arrangements for holding the referendum may be made in orderly manner and as much advance notice as possible be given to the date of the special referendum, it is essential that this notice be made effective as soon as possible. Accordingly, it is hereby determined that compliance with the 30-day effective date requirement of the Administrative Procedure Act is impracticable and contrary to the public interest and this notice shall be effective upon filing of this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on April 28, 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-4597; Filed, Apr. 28, 1965; 1:40 p.m.]

SUGAR

Notice of Hearing on Sugarcane Wages and Prices in Florida and Designation of Presiding Officers

Pursuant to the authority contained in sections 301(c) (1) and (2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to fair price and wage proceedings (7 CFR 802.1 et seq), notice is hereby given that a public hearing will be held at the Holiday Inn, in Belle Glade, Fla., on May 14, 1965, beginning at 10 a.m.

The purpose of this hearing is to receive evidence which may be of assistance to the Secretary of Agriculture in determining (1) pursuant to the provisions of section 301(c)(1) of the act whether the wage rates established for Florida sugarcane fieldworkers in the wage determination, which became effective October 1, 1964 (7 CFR 863.16), continue to be fair and reasonable under existing circumstances, or whether such determination should be amended, and (2) pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices for the 1965 crop of sugarcane to be paid, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and apply for payments under the act.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearing to express their views and present appropriate data in regard to wages and prices for sugarcane.

The hearing, after being called to order at the time and place mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof by the presiding officers.

Tom O. Murphy, A. A. Greenwood, D. E. McGarry, W. S. Stevenson, and C. F. Denny are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Signed at Washington, D.C., on April 28, 1965.

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

[F.R. Doc. 65-4619; Filed, Apr. 30, 1965; 8:48 a.m.]

Office of the Secretary

MICHIGAN

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of Michigan a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MICHIGAN

Barry.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after December 31, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 27th day of April 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-4592; Filed, Apr. 30, 1965; 8:46 a.m.]

DEPARTMENT OF COMMERCE

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of U.S. Standard Frequency and Time Broadcasts

In accordance with National Bureau of Standards policy of giving monthly notices regarding changes of phases in seconds pulses, notice is hereby given that there will be no change in the phase of seconds pulses emitted from radio station WWVB on 1 June 1965.

Notice is also hereby given that there will be no change in the phase of time pulses emitted from radio stations WWV and WWVH on 1 June 1965. These pulses at present occur at intervals which are longer than one second by 150 parts in 10^{10}. This is due to the offset maintained in frequency, as coordinated by the Bureau International de l'Heure (BIH).

A. V. ASTIN,
Director.

[F.R. Doc. 65-4599; Filed, Apr. 30, 1965; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI65-585]

FLUOR CORP., LTD.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates

APRIL 21, 1965.

On March 15 and 18, 1965, the Fluor Corp., Ltd. (Fluor) [1] tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Address is: 615 Midland Tower Bldg., Midland, Tex.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Docket Nos.
RI65-585	The Fluor Corp., Ltd., 615 Midland Tower Bldg., Midland, Tex.	6	9	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin Area).	$40	3-15-65	[2] 5-1-65	10-1-65	[3] 15.5017	[3 4 5 6] 16.8173	G-2961.
	The Fluor Corp., Ltd.	7	6	do	43	3-15-65	[2] 5-1-65	10-1-65	[3] 15.5017	[3 4 5 6] 16.8173	G-2961.
	do	8	6	do	14	3-15-65	[2] 5-1-65	10-1-65	[3] 15.5017	[3 4 5 6] 16.8173	G-2961.
	do	11	8	do	329	3-15-65	[2] 5-1-65	10-1-65	[3] 15.5017	[3 4 5 6] 16.8173	G-2961.
	do	13	9	do	339	3-15-65	[2] 5-1-65	10-1-65	[3] 15.5017	[3 4 5 7] 16.6318	G-2961.
	do	16	8	El Paso Natural Gas Co. (Pecos Valley Field, Pecos County, Tex.) (R.R. District No. 8) (Permian Basin Area).	600	3-15-65	[2] 5-1-65	10-1-65	[8] 15.5	[3 4 5 6] 16.5	G-2961.
	do	9	6	Northern Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin Area).	414	3-18-65	[2] 5-1-65	10-1-65	[9] 10.5012	[3 4 5 6] 11.7212	

[1] The stated effective date is the effective date requested by Respondent.
[2] Periodic rate increase.
[3] Pressure base is 14.65 p.s.i.a.
[4] Subject to 0.4467 cent per Mcf deduction for compression of low pressure gas (below 600 p.s.i.g.).
[5] Includes reimbursement for the full 2.55 percent New Mexico Oil and Gas Emergency School Tax.
[6] Includes reimbursement for the 0.55 percent increase in the New Mexico Oil and Gas Emergency School Tax.
[7] Subject to 0.5 cent per Mcf deduction for compression of low pressure gas (below 650 p.s.i.g.).
[8] Subject to 0.4875 cent per Mcf deduction for compression.

Supplements Nos. 9, 6, 6, 8, and 6 to Fluor's FPC Gas Rate Schedules Nos. 6, 7, 8, 11, and 9, respectively, reflect partial reimbursement for the full 2.55 percent New Mexico Oil and Gas Emergency School Tax which was increased from 2.0 percent to 2.55 percent on April 1, 1963. El Paso Natural Gas Co. (El Paso) the buyer under Supplements Nos. 9, 6, 6, and 8 to Fluor's FPC Gas Rate Schedules Nos. 6, 7, 8, and 11, respectively, has protested the rate increases contained in these four supplements. El Paso questions the right of Fluor to file rate increases reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico tax legislation effected a higher tax rate of at least 0.55 percent, El Paso claims there is controversy as to whether or not the new legislation effected an increased tax rate in excess of 0.55 percent. Under the circumstances, we shall provide that the hearing provided for herein with respect to Supplements Nos. 9, 6, 6, and 8 to Fluor's FPC Gas Rate Schedules Nos. 6, 7, 8, and 11, respectively, shall concern itself with the contractual basis for the rate filings which El Paso has protested, as well as the statutory lawfulness of the increased rates and charges contained in all of the proposed rate supplements. Northern Natural Gas Co. is the buyer under Supplement No. 6 to Fluor's FPC Gas Rate Schedule No. 9, mentioned above, but Northern Natural Gas Co. is not expected to protest such rate increase filing.

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

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

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the contractual basis for Fluor's proposed rate filings which El Paso has protested, as well as the statutory lawfulness of all of Fluor's proposed rate increases, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the contractual basis for Fluor's proposed rate filings which El Paso has protested, as well as the statutory lawfulness of all of Fluor's proposed rate increases.

(B) Pending a hearing and decision thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before June 9, 1965.

By the Commission.

[SEAL] GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-4475; Filed, Apr. 30, 1965; 8:45 a.m.]

[Docket No. G-6352 etc.]

CONTINENTAL OIL CO. ET AL.

Findings and Order After Statutory Hearing

APRIL 22, 1965.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, terminating rate proceeding, making successor co-respondent, redesignating proceeding, accepting agreement and undertaking for filing, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC Gas Rate Schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are either equal to or below the ceiling prices established by the Commission's Statement of Policy 61–1, as amended, or involve sales for which permanent certificates have been previously issued.

Ne-O-Tex Corp., Applicant in Docket No. CI65-486, proposes to sell natural gas from acreage acquired from Sinclair Oil & Gas Co. The subject acreage was nonproductive at the time of assignment but was dedicated to Sinclair's FPC Gas Rate Schedule No. 7 and sales were authorized in Docket No. G-2893. Sinclair's effective rate at the time of assignment was in effect subject to refund in Docket No. RI60-31.[1] Ne-O-Tex has entered into a contract with the purchaser for the sale of gas from the subject acreage at a rate less than Sinclair's rate at the time of assignment but greater than Sinclair's last rate not subject to refund for sales of gas from the subject acreage. Ne-O-Tex has agreed to become a co-respondent in the proceeding pending in Docket No. RI60-31 and has filed an agreement and undertaking to assure the re-

[1] Consolidated with Docket No. AR61-1, et al.

fund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding. Accordingly, Ne-O-Tex will be made co-respondent, the proceeding will be redesignated, and the agreement and undertaking will be accepted for filing.

W. H. Hudson (Operator), et al., Applicant in Docket No. CI65–648, proposes to abandon the sale of natural gas authorized in Docket No. CI62—1074. An unconditioned temporary certificate was issued April 19, 1962, authorizing Applicant to commence the subject sale at an initial rate of 16.5 cents per Mcf at 14.65 p.s.i.a. The certificate application was consolidated with Amerada Petroleum Corp., et al., Docket No. CI62–1544, et al., and a certificate was issued in the order accompanying Opinion No. 422 (31 FPC 623) at the "in-line" rate of 16.0 cents per Mcf. Inasmuch as there is a possibility that some portion of the initial 16.5-cent rate will have to be refunded,[1] the abandonment will be permitted and approved in Docket No. CI65–648 but Applicant will remain responsible for any refunds which finally may be ordered in Docket No. CI62–1074. Docket No. CI62–1074 will remain consolidated with Docket No. CI62–1544, et al., for determination of the refund question. Likewise, the application filed in Docket No. CI62–1074 on April 13, 1964, for authorization to sell gas from additional acreage will remain consolidated with the pending certificate proceeding in Docket No. G–17960, et al., for determination of the refund question only. Applicant filed for an increase in rate under its related rate schedule which increase was suspended in Docket No. RI65–362 until May 5, 1965. Inasmuch as no sales will be made at the increased rate, the proceeding in Docket No. RI65–362 is moot and will be terminated.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on April 21, 1965, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments, and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments, and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission, and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(4) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G–2893, G–G–6352, G–9991, G–10064, G–13207, G–14865, G–18432, CI61–900, CI63–231, CI63–838, CI64–441, CI64–947, and CI64–1333 should be amended as hereinafter ordered.

(6) The temporary certificate heretofore issued in Docket No. CI61–1725 should be amended by deleting therefrom authorization granted herein in Docket No. CI65–887.

(7) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the tabulation herein and in the respective applications, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the abandonment hereinafter permitted and approved in Docket No. CI65–648 should not be construed to relieve Applicant therein from the responsibility for any refunds which finally may be ordered in Docket No. CI62–1074, and that the rate suspension proceeding in Docket No. RI65–362 should be terminated.

(9) The certificates of public convenience and necessity heretofore issued to the respective Applicants herein relating to the abandonments hereinafter permitted and approved should be terminated.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Ne-O-Tex Corp. should be made a co-respondent in the proceeding pending in Docket No. RI60–31, that said proceeding should be redesignated accordingly, and the agreement and undertaking submitted by Ne-O-Tex Corp. in said proceeding should be accepted for filing.

(11) The respective related rate schedules and supplements as designated or redesignated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity be and the same are hereby issued, upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificate issued herein in Docket No. CI65–828 is subject to the conditions set forth in paragraphs (E), (F), and (G) of the order accompanying Opinion No. 350 (27 FPC 35). Applicant is hereby required to submit an estimated billing statement for the first month of service.

(E) The certificate authorizations heretofore issued to the respective Applicants in Docket Nos. G–6352, G–9991, CI63–231, and CI64–947 are hereby amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations, pursuant to the rate schedule supplements as indicated in the tabulation herein.

(F) The temporary certificate heretofore issued in Docket No. CI61–1725 is hereby amended by deleting therefrom authorization granted herein in Docket No. CI65–887.

[1] See P.S.C. of the State of New York v. F.P.C., 329 F. 2d 242, cert. denied sub nom. Prado Oil & Gas Co. v. F.P.C. and Skelly Oil Co., et al. v. F.P.C., 377 U.S. 963.

(G) The certificates heretofore issued in Docket Nos. G–2893 and G–14865 are hereby amended by deleting therefrom authorization granted herein in Docket Nos. CI65–486 and CI65–857.

(H) The certificate heretofore issued in Docket No. G–18432 is hereby amended by deleting therefrom authorization to render the subject sales granted herein in Docket Nos. CI65–885 and CI65–886.

(I) The certificate heretofore issued in Docket No. CI64–1333 is hereby amended to include the sale of natural gas from the additional acreage and the related rate schedule is redesignated as Har-Ken Oil Co., et al.

(J) The certificates heretofore issued in Docket Nos. G–10064, G–13207, CI61–900, CI63–838, and CI64–441 are hereby amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(K) In view of the authorization granted in paragraph (J) above in Docket No. G–13207 wherein Colorado Oil and Gas Corp. is authorized to sell gas from acreage acquired from Socony Mobil Oil Co., Inc., the sales of gas by Colorado Oil and Gas Corp. to its parent company, Colorado Interstate Gas Co. is without prejudice to any action which the Commission may take in any rate proceeding involving either company.

(L) Applicant in Docket No. G–13207 is hereby subject to Socony Mobil's settlement approved by the Commission's order issued May 5, 1964, which among other things imposed a moratorium on the filing of rate increases until January 1, 1967.

(M) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described and as more fully described in the respective applications herein are hereby granted.

(N) The abandonment herein permitted and approved in Docket No. CI65–648 does not relieve Applicant therein from the responsibility for any refunds which finally may be ordered in Docket No. CI62–1074, and the related rate suspension proceeding in Docket No. RI65–362 is hereby terminated.

(O) The certificates heretofore issued in Docket Nos. G–5126, G–5132, G–16569, G–16763, G–18605, and CI63–204 are hereby terminated.

(P) Ne-O-Tex Corp. be and it is hereby made a co-respondent in the proceeding pending in Docket No. RI60–31, said proceeding is redesignated accordingly,[1] and the agreement and undertaking submitted by Ne-O-Tex Corp. in said proceeding is accepted for filing.

(Q) Ne-O-Tex Corp. shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder, and the agreement and undertaking filed by Ne-O-Tex Corp. in Docket No. RI60–31 shall remain in full force and effect until discharged by the Commission.

(R) The respective related rate schedules and supplements as indicated in the tabulation herein are hereby accepted for filing; further, the rate schedules relating to the successions herein are hereby redesignated and accepted, subject to the applicable Commission regulations under the Natural Gas Act to be effective on the dates indicated in the tabulation herein.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G–6352 C 4–10–64	Continental Oil Co.	United Gas Pipe Line Co., South Cabeza Creek Field, Goliad County, Tex.	Letter 3–23–64 [4]	207	9
G–9991 D 3–8–65	Gulf Oil Corp. (Operator), et al.	Michigan Wisconsin Pipe Line Co., Niehols Field, Kiowa County, Kans.	Letter agreement 12–30–64 [2 9]	44	7
G–10064 E 3–8–65	John A. Hendershot (Operator), et al. (successor to Russell Cobb, Jr. (Operator), et al.).	Arkansas Louisiana Gas Co., South Hunter Field, Garfield County, Okla.	Russell Cobb, Jr. (Operator), et al., FPC GRS No. 1.	1	----
			Supplement No. 1	1	1
			Notice of succession 3–4–65.	----	----
			Assignment 10–1–63 [4]	1	2
			Assignment 10–2–63 [5]	1	3
			Trust agreement 9–26–63.[5]	1	Exh. A to 2
			Effective date: 10–2–63	----	----
G–13207 E 3–3–65	Colorado Oil & Gas Corp. (successor to Socony Mobil Oil Co., Inc.).	Colorado Interstate Gas Co., Adams Ranch Field, Meade County, Kans.	Socony Mobil Oil Co., Inc., FPC GRS No. 290.	87	----
			Supplement Nos. 1–2	87	1–2
			Notice of succession (undated).	----	----
			Assignment 12–8–64 [7]	87	3
			Assignment 2–3–65 [8]	87	4
			Effective date: 12–1–64	----	----
CI61–900 E 3–8–65	Livingston Oil Co. (successor to A. O. Olson, d.b.a. Olson Oil Co.).	Cities Service Gas Co., West Palmer Field, Barber County, Kans.	A. O. Olson d.b.a. Olson Oil Co., FPC GRS No. 1.	17	----
			Notice of succession 3–4–65.	----	----
			Assignment 10–15–64 [9]	17	1
			Assignment 10–15–64 [10]	17	2
			Effective date: 9–1–64	----	----
CI63–231 D 3–10–65	Ryan Consolidated Petroleum Corp.	Hope Natural Gas Co., New Milton District, Doddridge County, W. Va.	Supplement (undated).[2 11]	3	1
CI63–838 E 2–11–65	Genere Gas Industries, Inc. (successor to James A. Ford d.b.a. Maytex Gas Co., Operator).	Texas Gas Transmission Corp., NE Bethany Field, Panola County, Tex.	James A. Ford d.b.a. Maytex Gas Co., Operator, FPC GRS No. 2.	1	----
			Notice of succession 2–9–65.	----	----
			Assignment 1–28–65 [12]	1	1
			Effective date: 2–1–65	----	----
CI64–441 E 2–11–65	Genere Gas Industries, Inc. (successor to James A. Ford d.b.a. Maytex Gas Co. (Operator), et al.).	do	James A. Ford d.b.a. Maytex Gas Co. (Operator), et al., FPC GRS No. 3.	2	----
			Notice of succession 2–9–65.	----	----
			Assignment 1–28–65 [12]	2	1
			Effective date: 2–1–65	----	----
CI64–947 C 3–8–65	The Atlantic Refining Co.	Northern Natural Gas Co., Ivanhoe Area, Beaver County, Okla.	Agreement 1–8–65	285	2
			Letter agreement 2–8–65.[2 13]	285	3
CI64–1333 C 3–10–65	Har-Ken Oil Co., et al.	Texas Gas Transmission Corp., Midland Field, Muhlenberg County, Ky.	Contract 2–15–65 [2 13]	5	----
CI65–486 (G–2893) F 11–20–64	Ne-O-Tex Corp.[13]	El Paso Natural Gas Co., Spraberry Trend Area, Glasscock County, Tex.	Contract 9–28–64	1	----
			Letter agreement 9–28–64.[17]	1	1
CI65–648 (CI62–1074) B 1–7–65	W. H. Hudson (Operator), et al.	Tennessee Gas Transmission Co., NE Lopeno (Wilcox) Field, Zapata County, Tex.	Notice of cancellation 1–5–65.[3 13]	3	7
CI65–827 A 2–23–65	Anadarko Production Co.	Kansas-Colorado Utilities, Inc., Hugoton Field, Hamilton County, Kans.	Contract 11–23–64	87	----
			Amendment 2–2–65 [14 15]	87	1
CI65–828 A 2–23–65 3–15–65 [16]	Ashland Oil & Refining Co.	Panhandle Eastern Pipe Line Co., acreage in Woods County, Okla.	Contract 12–16–64	172	----
			Letter agreement 10–9–64.[14 15]	172	1
CI65–846 A 3–1–65	Southern Union Production Co.	El Paso Natural Gas Co., Mesa Verde Formation, La Plata County, Colo.	Contract 1–26–65 [14]	16	----

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] Sinclair Oil & Gas Co. and Ne-O-Tex Corp.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI65-857 (G-14861) F 2-23-65 [22]	Sam D. Ares and Albert L. Ares (Operators), et al. (successor to Cities Service Oil Co.).	El Paso Natural Gas Co., Everett Lease, Jalmat Field, Lea County, N. Mex.	Contract 5-13-49	3	
			Supplemental agreement 2-17-51	3	1
			Supplemental agreement 6-28-52	3	2
			Supplemental agreement 5-6-54	3	3
			Supplemental agreement 7-8-57	3	4
			Supplemental agreement 6-13-60	3	5
			Supplemental agreement 7-7-60	3	6
			Supplemental agreement 10-14-60	3	7
			Supplemental agreement 11-11-60	3	8
			Supplemental agreement 5-22-62 [23]	3	9
			Assignment 12-1-64 [24]	3	10
			Effective date: 12-1-64		
D (G-14865) [24]	Cities Service Oil Co.	do	Assignment 12-1-64 [24]	40	11
			Effective date: 12-1-64		
CI65-861 (G-8132) B 3-4-65	Sunray DX Oil Co. (Operator), et al.	Texas Eastern Transmission Corp., Hordes Creek Field, Goliad County, Tex.	Notice of cancellation 3-2-65 [3] [25]	10	14
CI65-863 (G-14768) B 3-5-65	Hassie Hunt Trust	United Gas Pipe Line Co., Bryceland Area, Bienville Parish, La.	Notice of cancellation 3-3-65 [3] [26]	21	6
CI65-865 (G-14569) B 3-5-65	Cheyenne Oil Corp. of Delaware (Operator), et al.	Texas Gas Transmission Corp., Grant Coulee Area, Acadia Parish, La.	Notice of cancellation 3-3-65 [3] [27]	2	2
CI65-866 (CI63-294) B 3-4-65	Champlin Petroleum Co.	Arkansas Louisiana Gas Co., Hood Estate Unit No. 1, Stephens County, Okla.	Notice of cancellation 3-3-65 [3] [28]	95	4
CI65-868 A 3-8-65	Neal Rodder (Operator), et al.	Hope Natural Gas Co., Central District, Doddridge County, W. Va.	Contract 12-14-64 [16]	12	
CI65-869 A 3-8-65	West Vandyfy Trust	Hope Natural Gas Co., Murphy District, Ritchie County, W. Va.	Contract 1-15-65 [16]	1	
CI65-870 A 3-8-65	Trojan Coal & Petroleum Corp.	Hope Natural Gas Co., Glenville District, Gilmer County, W. Va.	Contract 1-15-65 [16]	3	
CI65-871 A 3-8-65	Pioneer Petroleum, Inc., et al.	Hope Natural Gas Co., Union District, Harrison County, W. Va.	Contract 12-15-64 [16]	8	
CI65-872 A 3-8-65	Texas American Oil Corp.	Northern Natural Gas Co., Ozona (Canyon) Southwest Field, Crockett County, Tex.	Contract 2-11-65 [16]	3	
CI65-873 A 3-8-65	E. M. Reynolds d.b.a. Madison Gas Co.	Hope Natural Gas Co., Ripley District, Jackson County, W. Va.	Contract 1-20-65 [16]	2	
CI65-874 A 3-8-65	Deb Oil & Gas Co.	Hope Natural Gas Co., Warren District, Upshur County, W. Va.	Contract 1-18-65 [16]	3	
CI65-876 A 3-8-65	Union Drilling, Inc.	Cumberland & Allegheny Gas Co., Banks District, Upshur County, W. Va.	Contract 11-2-64 [16]	34	
CI65-877 (G-5128) B 3-8-65	Sunray DX Oil Co. (Operator), et al.	Texas Eastern Transmission Corp., North Goebel Field, Live Oak County, Tex.	Notice of cancellation 3-5-65 [3] [29]	31	15
CI65-879 A 3-8-65	Ambassador Oil Corp. (Operator), et al.	Northern Natural Gas Co., acreage in Ochiltree County, Tex.	Contract 1-26-65 [16]	23	
CI65-880 A 3-8-65	Spartan Gas Co.	United Fuel Gas Co., Malden District, Kanawha County, W. Va.	Contract 3-3-65 [14]	12	
CI65-882 (G-18605) B 3-8-65	Humble Oil & Refining Co. (Operator), et al.	American Louisiana Pipe Line Co., Chenière Perdue, East Field, Cameron Parish, La.	Notice of cancellation 3-1-65 [3] [30]	136	3
CI65-883 (G-18432) F 2-23-65 [31]	Oil & Gas Property Management, Inc. (Delaware), agent for Nafco Oil & Gas, Inc.	Tennessee Gas Transmission Co., Cleveland, Lick Branch, McCoy and Pelican Fields, Liberty and San Jacinto Counties, Tex.	Nafco Oil & Gas, Inc., FPC GRS No. 1	1	
			Supplement Nos. 1-14	1	1-14
			Notice of succession (undated).		
			Operating agreement 4-1-54.	1	15
			Amendment of operating agreement 6-21-61.	1	16
CI65-886 (G-18432) F 2-23-65 [31]	do	Tennessee Gas Transmission Co., Blue Basin, Daboval, Reita, Twin Basin and West Withers Areas, Wharton County, Tex.	Nafco Oil & Gas, Inc., FPC GRS No. 3.	2	
			Supplement Nos. 1-10	2	1-10
			Notice of succession (undated).		
			Operating agreement 4-1-54.	2	11
			Amendment of operating agreement 6-21-61.	2	12
CI65-887 (CI61-1725) [15] F 3-9-65	Rutter and Co., Ltd., et al.	El Paso Natural Gas Co., Spraberry Trend Area, Glasscock County, Tex.	Contract 4-6-61 [32]	3	
			Assignment 12-19-62 [33]	3	1
			Assignment 1-3-64 [34]	3	2
			Effective date: 11-1-63		
CI65-889 A 3-10-65	M. D. Carey, et al. d.b.a. Carey Oil Co., et al.	Hope Natural Gas Co., Grant District Doddridge County, W. Va.	Contract 1-26-65 [16]	2	
CI65-890 A 3-10-65	E. C. Wilson, et al.	Hope Natural Gas Co. Center District, Gilmer County, W. Va.	Contract 1-21-65 [16]	3	
CI65-891 A 3-10-65	M. D. Carey, et al. d.b.a. Carey Oil Co., et al.	Hope Natural Gas Co., Grant District, Doddridge County, W. Va.	Contract 1-26-65 [16]	3	
CI65-892 A 3-10-65	John S. Bailey, Jr., et al.	Hope Natural Gas Co., Lee District, Calhoun County, W. Va.	Contract 1-26-65 [16]	1	
CI65-893 A 3-10-65	Gus Berry	Hope Natural Gas Co., Murphy District, Ritchie County, W. Va.	Contract 2-2-65 [16]	3	
CI65-894 A 3-10-65	West Vandyfy Trust	United Fuel Gas Co., Geary District, Roane County, W. Va.	Contract 2-5-65 [16]	2	
CI65-895 A 3-9-65	Victor Hale	Kentucky-West Virginia Gas Co., Middle Creek Field, Floyd County, Ky.	Contract 2-10-65 [16]	12	

See footnotes at end of table.

[1] By letter filed Aug. 10, 1964, Applicant amended its supplemental agreement to delete the indefinite pricing provisions from basic contract insofar as it relates to subject additional acreage.
[2] Deletes acreage buyer cannot economically connect to its system.
[3] Effective date: Date of this order.
[4] Conveys acreage from Russell Cobb, Jr., to Compressor Corp. of Oklahoma.
[5] Conveys acreage from Compressor Corp. to Southwest Title & Trust Co., Inc., and/or J. A. Hendershot.
[6] Between J. A. Hendershot, trustor and Southwest Title & Trust Co., Inc., trustee.
[7] From Socony Mobil to Lee Banks.
[8] From Lee Banks to Colorado Oil & Gas Corp.
[9] Conveys acreage from Olson to Quail Oil Co.
[10] Conveys acreage from Quail to Livingston.
[11] Deletes from Ryan's rate schedule an 80-acre portion which was never owned by Ryan. Hope has entered into a separate contract with the owners of this acreage and sales therefrom have been certificated in Docket No. CI65-680 (Floyd W. Stone, et al., d.b.a. Stone Oil & Gas Co., FPC GRS No. 3).
[12] Assignment of leases from Bethany Gas Gathering Co. (James A. Ford d.b.a. Maytex Gas Co. was operator for Bethany Gas Gathering Co. in which Ford is managing partner) to Genere.
[13] Provides for connection of low-deliverability well.
[14] Effective date: Date of initial delivery.
[15] Supersedes contract dated Apr. 16, 1964, designated as Har-Ken Oil Co., FPC GRS No. 2. Covers previously dedicated and additional acreage, removes formation limitation (new contract does not change pricing provisions).
[16] By letter filed Jan. 27, 1965, Applicant agreed to accept a permanent certificate at an initial rate of 16.236 cents per Mcf.
[17] Provides that Sept. 28, 1964, contract shall supersede Sept. 22, 1952, contract with Sinclair as to subject acreage as long as Sept. 28, 1964, contract remains effective.
[18] Production of gas no longer economically feasible.

[11] Amends contract pricing provisions by deleting the indefinite pricing clause.
[12] Applicant filed for 17.0 cents but agreed by a petition to amend the application filed Mar. 15, 1965, to accept a permanent certificate at 15.0 cents conditioned similarly to the certificates listed in Opinion No. 350.
[13] Provides for connection of low pressure wells that do not meet the contract's reserve requirements.
[14] Partial succession to Supplement No. 4 to Cities Service Oil Co.'s, FPC GRS No. 40.
[15] Assigns interest in lease to a depth of 4,000 feet.
[16] No certificate deletion filing made by Cities Service Oil Co.
[17] Deletes interest in lease assigned to Sam D. Ares and Albert L. Ares (Operators), et al., FPC GRS No. 3.
[18] Source of gas depleted.
[19] Encroachment of salt water has rendered well unproductive.
[20] No change in ownership interest is involved, merely a change in operators. Management owning no interest in the leases involved.
[21] Bartessa Oil Corp. was issued temporary certificate at 16.0 cents on Aug. 26, 1961, and refused permanent certificate at 16.0 cents rate. Rutter & Co., Ltd., et al., requested a permanent certificate at 16.0 cents by letter dated Mar. 16, 1965 (filed Mar. 17, 1965).
[22] Basic contract between Bartessa Oil Corp. and El Paso (Bartessa Oil Corp., et al., FPC GRS No. 2).
[23] Assignment of interest from Bartessa Oil Corp. to James L. Parks (Parks has made no filing with regards to this acreage).
[24] Assignment of interest from James L. Parks to Rutter & Co., Ltd., et al.

[F.R. Doc. 65-4474; Filed, Apr. 30, 1965; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 56401]

PHILIPPINE PESO

Rates of Exchange

APRIL 27, 1965.

T.D. 55619, issued May 14, 1962, following the Philippines exchange reform of January 22, 1962, authorized customs conversions of the Philippine peso on the basis of a composite of 20 percent at the certified "Official" rate and 80 percent at the certified "Free" rate.

Subsequent instructions in Central Bank of the Philippines Circular No. 184, series of 1964, December 1, 1964, holds that all exports with an annual average value under $2 million for the years 1962–1963 will not be subject to the 20 percent retention of export proceeds, effective as to export licenses approved beginning December 1, 1964. Receipts of foreign exchange from embroidery re-exports licensed for export beginning December 1, 1964, specifically are exempted from the 20 percent retention of export proceeds according to the Central Bank's memorandum dated December 4, 1964, to its authorized agent banks.

Effective as to entries covering embroidery re-exports and exportations of other commodities, the exports of which had an annual average value under $2 million for the years 1962–1963, licensed for export beginning December 1, 1964, conversions of the Philippine peso for customs purposes shall proceed 100 percent at the "Free" rate of exchange as certified for the date of exportation by the Federal Reserve Bank of New York.

The directions in T.D. 55619, authorizing conversion of the Philippine peso on the basis of a composite of 20 percent at the "Official" rate of exchange and 80 percent at the "Free" rate of exchange, continue in force as to commodities that remain subject to the 20-percent retention of export proceeds by direction of the Central Bank's memorandum to authorized agent banks dated December 2, 1964, namely:

1. Copra.
2. Centrifugal sugar.
3. Logs.
4. Coconut oil.
5. Abaca (hemp).
6. Copper concentrates.
7. Desiccated coconut.
8. Plywood.
9. Iron ores.
10. Copra meal/cake/pellets/expeller.
11. Copper and silver concentrates.
12. Canned pineapple.
13. Leaf tobacco.
14. Refractory chrome ore.
15. Molasses.
16. Lumber.
17. Refined sugar.
18. Corestock.
19. Veneers.
20. Scrap/strip/filler/stem tobacco.
21. Abaca rope (cordage).
22. Pineapple juice.
23. Pollard.

The rates of exchange certified for the Philippine peso for the period December 1–4, 1964, were published in the January 14, 1965, issue of the weekly Treasury Decisions. Such rates for subsequent dates of exportation appear in each succeeding weekly issue.

[SEAL] LESTER D. JOHNSON,
Acting Commissioner of Customs.

[F.R. Doc. 65-4605; Filed, Apr. 30, 1965; 8:47 a.m.]

[Antidumping—AA 643.3-r]

TITANIUM DIOXIDE FROM WEST GERMANY

Withholding of Appraisement Notice

APRIL 27, 1965.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect, from information presented to me, that the purchase price of titanium dioxide, pigment grade, imported from West Germany, manufactured by Farbenfabriken Bayer A. G., Leverkusen, Germany, is less, or likely to be less, than the foreign market value as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. (162 and 164)). The investigation is limited to the transactions of the above-identified firm.

Customs officers are being directed to withhold appraisement of titanium dioxide, pigment grade, imported from West Germany, manufactured by Farbenfabriken Bayer A. G., Leverkusen, Germany, in accordance with the provisions of § 14.9 of the Customs Regulations (19 CFR 14.9).

The information alleging that the merchandise under consideration was being sold at less than fair value within the meaning of the Antidumping Act was received in proper form on November 17, 1964. The information was submitted by the Cabot Corp., Boston, Mass.

This notice is published pursuant to § 14.6(e) of the Customs Regulations (19 CFR 14.6(e)).

[SEAL] LESTER D. JOHNSON,
Acting Commissioner of Customs.

[F.R. Doc. 65-4606; Filed, Apr. 30, 1965; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 15353; Order E-22092]

INTERNATIONAL AIR TRANSPORT ASSN.

Order Relating to Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of April 1965.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1–2–3 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA Status Report No. 11, names an additional specific commodity rate as set forth below.

Item 1100—Furs, hides, pelts and skins; and parts thereof; n.e.s., excluding wearing apparel, 253 cents per kg., minimum weight 100 kgs., Calcutta to New York.

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

Accordingly, it is ordered:

That Agreement C.A.B. 18169, R-10 be approved, provided that such approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

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

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 65-4621; Filed, Apr. 30, 1965; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15668, 15708; FCC 65M-524]

CHICAGOLAND TV CO. AND CHICAGO FEDERATION OF LABOR AND INDUSTRIAL UNION COUNCIL

Order Continuing Hearing

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

The Hearing Examiner having for consideration a motion to continue the date for recommencement of the hearing filed by Chicago Federation of Labor and Industrial Union Council on April 26, 1965, together with the averments contained therein that the other parties hereto have consented to immediate grant of the requested relief;

It appearing that good cause for the requested continuance has been shown;

It is ordered, This 27th day of April 1965, that the hearing now scheduled to recommence on May 4, 1965, is continued to May 11, 1965, at 10 a.m. in the offices of the Commission at Washington, D.C.

Released: April 28, 1965.

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

[F.R. Doc. 65-4611; Filed, Apr. 30, 1965; 8:47 a.m.]

[Docket No. 12865; FCC 65M-528]

CHRONICLE PUBLISHING CO. (KRON-TV)

Order Continuing Hearing

In re application of Chronicle Publishing Co. (KRON-TV), San Francisco, Calif., Docket No. 12865, File No. BPCT-2168; for construction permit to increase antenna height.

The Hearing Examiner having under consideration pleading filed April 27, 1965, on behalf of Chronicle Publishing Co. requesting that the hearing conference now scheduled for April 30, 1965, be rescheduled for June 15, 1965;

It appearing that Chronicle along with Crocker Land Co. have filed petitions for reconsideration in connection with the Commission's memorandum opinion and order released February 11, 1965 (FCC 65-98);

It further appearing that good cause exists as said pleadings are currently pending before the Commission;

Accordingly, it is ordered, This 28th day of April 1965 that the hearing conference herein now scheduled for April 30, 1965, be and the same is hereby rescheduled for June 15, 1965, 10 a.m., in the Commission's offices, Washington, D.C.

Released: April 28, 1965.

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

[F.R. Doc. 65-4612; Filed, Apr. 30, 1965; 8:47 a.m.]

[Docket Nos. 15973, 15974]

DIXIE BROADCASTING CO. INC. AND TUPELO BROADCASTING CO., INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Dixie Broadcasting Co., Inc., Tupelo, Miss., Docket No. 15973, File No. BPH-4423; requests: 98.5 mc, #253; 100 kw; 246.5 ft.; Tupelo Broadcasting Co., Inc., Tupelo, Miss., Docket No. 15974, File No. BPH-4461; requests: 98.5 mc, #253; 100 kw; 378 ft.; for construction permits.

The Commission, by the Chief of the Broadcast Bureau under delegated authority, considered the above-captioned applications on April 27th, 1965.

It appearing, that, except as indicated by the issues specified below, each of the applicants is legally, technically, financially, and otherwise qualified to construct and operate as proposed; and

It further appearing that the above-captioned applications are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference with each other; and

It further appearing, that, the population, as well as the area, to be served by applicants proposals differ substantially in number and size, and that for purposes of comparison, the areas and populations within the respective 1 mv/m contours, together with the availability of other FM services (at least 1 mv/m) within such areas will be considered in the hearing ordered below for the purpose of determining whether a comparative preference should be afforded either applicant; and

It further appearing, that, in view of the foregoing, the Commission in unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below;

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the area and population within each of the proposed 1 mv/m contours and the availability of other FM service (at least 1 mv/m) to such areas and populations.

2. To determine, on a comparative basis, which of the proposals would better serve the public interest, convenience, and necessity in light of the evidence adduced pursuant to the foregoing issue and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on its ability to own and operate the FM broadcast station as proposed.

(b) The proposals of each with respect to the management and operation of the FM broadcast station as proposed.

(c) The programming services proposed in each of the above-captioned applications.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue:

To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 28, 1965.

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

[F.R. Doc. 65-4613; Filed, Apr. 30, 1965; 8:47 a.m.]

[Docket Nos. 15975, 15976]

REGIONAL BROADCASTING CORP. AND EVERGREEN ENTERPRISES, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Regional Broadcasting Corp., Loveland, Colo., Docket No. 15975, File No. BPH-4708; requests: 102.3 mc, #272; 3 kw; −82 ft.; Evergreen Enterprises, Inc., Loveland, Colo., Docket No. 15976, File No. BPH-4779; requests: 102.3 mc, #272; 3 kw; 5 ft.; for construction permits.

The Commission, by the Chief of the Broadcast Bureau under delegated authority, considered the captioned applications on April 27, 1965;

It appearing, that, except as indicated by the issues specified below, each of the applicants is legally, technically, financially, and otherwise qualified to construct and operate as proposed; and

It further appearing that the above-captioned applications are mutually exclusive in that concurrent operation would result in mutually destructive interference; and

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below;

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the operations proposed in the above-captioned applications would better serve the public interest, in light of the evidence adduced and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate the proposed FM broadcast station.

(b) The proposals of each of the applicants with respect to management and operation of the proposed station.

(c) The programming services proposed in each of the applications.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

It is further ordered, That, the issues in the above-captioned proceedings may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue:

To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 28, 1965.

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

[F.R. Doc. 65-4614; Filed, Apr. 30, 1965; 8:47 a.m.]

[Docket Nos. 15841—15843; FCC 65M-527]

WTCN TELEVISION, INC. (WTCN-TV) ET AL.

Order Continuing Hearing

In re applications of WTCN Television, Inc. (WTCN-TV), Minneapolis, Minn., Docket No. 15841, File No. BPCT-2850; Midwest Radio-Television, Inc. (WCCO-TV), Minneapolis, Minn., Docket No. 15842, File No. BPCT-3292; United Television, Inc. (KMSP-TV), Minneapolis, Minn., Docket No. 15843, File No. BPCT-3293; for construction permits.

The Hearing Examiner having under consideration joint petition filed April 21, 1965, on behalf of WTCN Television, Inc., and United Television, Inc., applicants herein, in which petitioners request a revision of procedural dates heretofore scheduled and that the hearing now scheduled for June 15, 1965, be rescheduled for June 29, 1965, or such other date as may fit the Hearing Examiner's schedule, and comments filed April 22, 1965 on behalf of the Association of Maximum Service Telecasters, Inc.;

It appearing that MST pleads that its counsel presently have a conflict with the requested hearing date of June 29, 1965, with a matter now in hearing before another Hearing Examiner;

It further appearing that good cause exists why said joint petition should be granted; that the hearing should be rescheduled for a date other than June 29, 1965, and there is no other objection thereto;

Accordingly, it is ordered, This 28th day of April 1965, that the petition is granted and that the exchange of applicant's affirmative exhibits shall be on or before May 17, 1965; that respondents' replies or negative exhibits shall be exchanged on or before June 15, 1965, and that the notification of witnesses desired for cross-examination shall be accomplished on or before June 22, 1965;

It is further ordered, That the hearing now scheduled for June 15, 1965, be and the same is hereby rescheduled for July 19, 1965, 10 a.m., in the Commission's offices, Washington, D.C.

Released: April 28, 1965.

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

[F.R. Doc. 65-4615; Filed, Apr. 30, 1965; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

PACIFIC COAST-AUSTRALASIAN TARIFF BUREAU

Notice of Agreement Filed for Approval

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

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

Notice of agreement filed for approval by:

Mr. W. C. Galloway, Chairman, Pacific Coast-Australasian Tariff Bureau, 635 Sacramento Street, San Francisco, Calif., 94111.

Agreement 50-14 between the member lines of the Pacific Coast-Australasian Tariff Bureau has been filed with the Commission for approval to modify the admission, withdrawal, and expulsion provisions of the basic agreement, pursuant to General Order 9 (46 CFR Part 523).

Dated: April 28, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-4608; Filed, Apr. 30, 1965; 8:47 a.m.]

AMERICAN EXPORT ISBRANDTSEN LINES, INC., AND SEATRAIN LINES, INC.

Notice of Agreement Filed for Approval

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

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with

reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Harvey M. Flitter, Assistant Traffic Manager, Seatrain Lines, Inc., 595 River Road, Edgewater, N.J.

Agreement 9395–1 between American Export Isbrandtsen Lines, Inc., and Seatrain Lines, Inc., modifies a through billing arrangement by adding Israel ports as origin ports to the trade from ports in India, Pakistan, Ceylon, Persian Gulf, Red Sea, and Gulf of Aden ports, and ports in Egypt, Lebanon, Syria, Turkey, and Greece to Puerto Rico with transhipment at the port of New York, N.Y., under terms and conditions set forth in the basic agreement.

Dated: April 28, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-4609; Filed, Apr. 30, 1965; 8:47 a.m.]

J. D. SMITH INTER-OCEAN, INC., ET AL.

Notice of Agreements Filed for Approval and Agreement Subject to Cancellation

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

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1321 H Street NW., room 301. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement or request for a hearing should also be forwarded to each of the parties to the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Unless otherwise indicated, these agreements are nonexclusive, cooperative working arrangements under which the parties may perform freight forwarding services for each other. Forwarding and service fees are to be agreed upon on each transaction. Ocean freight compensation is to be divided as agreed between the parties.

J. D. Smith Inter-Ocean, Inc., New York, N.Y., John V. Carr & Son, Inc., Detroit, Mich. ---------- FF–1716

Uno Shipping Co., Inc., New York, N.Y., The Hipage Co., Inc., Norfolk, Va. ---------- FF–1826

Gulf Florida Terminal Co., Tampa, Fla., Oceanic Forwarding Co., San Francisco, Calif. ---------- FF–1827

William H. Masson, Inc., Baltimore, Md., Freedman & Slater, Inc., New York, N.Y. ---------- FF–1833

Robbins Forwarding Co., New York, N.Y., The Cottman Co., Baltimore, Md. ---------- FF–1834

United States Forwarding Corp., New York, N.Y., Allen Forwarding Co., Philadelphia, Pa. ---------- FF–1836

Dixie Forwarding Co., Inc., Houston, Tex., Copeland Shipping, Inc., New York, N.Y. ---------- FF–1838

Amersped, Inc., New York, N.Y., Latin American Cargo Expediters, Miami, Fla. ---------- FF–1839

Inge & Co., Inc., New York, N.Y., I. C. Harris & Co., Detroit, Mich. ---------- FF–1840

William H. Masson, Inc., Baltimore, Md., Colony Shipping Co., Inc., New York, N.Y. ---------- FF–1841

Gerard F. Tujague, Inc., New Orleans, La., George A. Stattel, New York, N.Y. ---------- FF–1842

William H. Masson, Inc., Baltimore, Md., Salentine & Co., Inc., Milwaukee, Wis. ---------- FF–1843

Inge & Company, New York, N.Y., T. J. Hanson, Inc., Beaumont, Tex. ---------- FF–1844

Paul A. Boulo, Mobile, Ala., Robert L. Keller, Miami, Fla. ---------- FF–1845

G. S. Doyle Co., Inc., New York, N.Y., Baxter Co. Customhouse Brokers, Inc., New Orleans, La. ---------- FF–1846

James E. Fox & Co., Inc., New York, N.Y., Godwin Shipping Co., Inc., Mobile, Ala. ---------- FF–1847

I. C. Harris & Co., Detroit, Mich., Frederick Richards, Inc., Charleston, S.C. ---------- FF–1848

H. A. Gogarty, Inc., New York, N.Y., C. H. Powell Co., Inc., Boston, Mass. ---------- FF–1849

R. F. Downing & Co., Inc., New York, N.Y., I. C. Harris Co., Detroit, Mich. ---------- FF–1850

Dyson Shipping Co., Inc., New York, N.Y., Godwin Shipping Co., Mobile, Ala. ---------- FF–1851

H. Stone & Co., New York, N.Y., Judson Sheldon International Corp. (all offices), New York, N.Y. ---------- FF–1852

United Forwarders Service, Miami, Fla., Southern Shipping Co., Jacksonville, Fla. ---------- FF–1853

Inge & Co., Inc., New York, N.Y., William H. Masson, Inc., Baltimore, Md. ---------- FF–1854

Express Forwarding & Storage Co., Inc., New York, N.Y., Waters Shipping Co., Wilmington, N.C. ---------- FF–1855

A. V. Berner & Co., Inc., New York, N.Y., Farrell Shipping Co., Inc., New Orleans, La. ---------- FF–1856

Chas. Kurz Co., Philadelphia, Pa., Nordstrom Freighting Corp., New York, N.Y. ---------- FF–1857

Layden Shipping Corp., New York, N.Y., Buckley & Co., Houston, Tex. ---------- FF–1860

Seaport Shipping Co. (Seattle) Seattle, Wash., F. V. Valdes & Co., Inc., San Francisco, Calif. ---------- FF–1860

J. B. Wood Shipping Co., Inc., New York, N.Y., Buckley & Co., Houston, Tex. ---------- FF–1862

International Expediters, Inc., New York, N.Y., William R. Filbin & Co., Inc., Detroit, Mich. ---------- FF–1863

Wilfred Schade & Co., Inc., Newport News, Va., Kersten Shipping Agency, Inc., New York, N.Y. ---------- FF–1864

John A. Merritt & Co., Pensacola, Fla., The Hipage Co., Inc., Norfolk, Va. ---------- FF–1865

The A. W. Fenton Co., Inc., Cleveland, Ohio, Samuel Shapiro & Co., Inc., Baltimore, Md. ---------- FF–1866

Paul A. Boulo, Mobile, Ala., Anderson Shipping Co., Savannah, Ga. ---------- FF–1867

Triangle Forwarding Corp., New York, N.Y., E. J. Edwards Int'l, Chicago, Ill. ---------- FF–1868

Daniel F. Young, Inc., New York, N.Y., Geo. S. Bush & Co., Inc., Portland, Oreg. ---------- FF–1869

Agreement FF–1828 between H. Stone & Co., New York, N.Y., and J. H. Russell, New Orleans, La., is a working arrangement under which ocean freight brokerage shall be divided equally between the parties or as agreed after negotiation.

Agreement FF–1829 between Advance Shipping Co., Houston, Tex., and Nolan Shipping Co., New Orleans, La., is a working arrangement under which forwarding and service fees are as $5 per shipment, providing originating party supplies partially completed documents and 75 percent of ocean freight compensation will be retained by originating party and 25 percent by party handling shipment through their port.

Agreement FF–1831 between Alonso Shipping Co., New Orleans, La. and Marine Forwarding Co., Inc., New York, N.Y. is a working agreement under which forwarding and service fees are $5 per shipment. Special services remain subject to negotiation and agreement on each transaction, depending upon the services to be performed. Division of ocean freight compensation will be 40 percent for Alonso Shipping Co. and 60 percent for Marine Forwarding Co., Inc.

Agreement FF–1832 between Wilmington Shipping Co., Wilmington, N.C. party (a) and Major Forwarding Co., Inc., New York, N.Y. party (b) is a working agreement whereby on shipments loaded at Wilmington, N.C., party (b) agrees to pay party (a) $3 for completing Export Declarations and filing them with the Custom House. Ocean freight compensation, to be retained by party (b) who will perform the booking of the space.

Agreement FF–1837 between Eagle, Inc., Miami, Fla. party (a) and Major Forwarding Co., Inc., New York, N.Y. party (b) is a working agreement whereas shipments loaded at Miami, party (b) agrees to pay party (a) $3 for completing Export Declarations and filing them with the Custom House. Ocean freight compensation, to be retained by party (b) who will perform the booking of the space.

Agreement FF–1858 between C. S. Greene & Co., Inc., Chicago, Ill. and The Hipage Co., Inc., Norfolk, Va., is a cooperative working agreement under which forwarding and service fees are $7.50 per shipment; special services remain subject to negotiation and agreement on each transaction. Ocean freight brokerage to be divided on the basis of 50 percent for The Hipage Co., Inc., and 50 percent for C. S. Greene & Co., Inc.

Agreement FF–1859 between H. L. Ziegler, Inc., Houston, Tex. and Bennett Forwarding Co., Houston, Tex. is a working agreement under which forwarding and service fees are subject to negotiation each transaction. Ocean freight compensation is to be divided equally between the parties.

Notice of agreement subject to cancellation:

Notice is hereby given that the following independent ocean freight forwarder cooperative working agreement approved by the Commission pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814) is scheduled for cancellation; inasmuch as the parties to the agreement have requested in writing that the agreement be terminated.

The parties to the following agreement have requested that it be cancelled in accordance with its terms.

Paul A. Boulo, Mobile, Ala., Dyson Shipping Co., Inc., New York, N.Y ---------- FF-1334

Dated: April 28, 1965.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-4610; Filed, Apr. 30, 1965; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 521]

ALABAMA

Declaration of Disaster Area

Whereas, it has been reported that during the month of April 1965, because of the effects of certain disasters, damage resulted to residences and business property located in De Kalb and Jackson Counties in the State of Alabama;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid counties and areas adjacent thereto, suffered damage or destruction resulting from tornadoes and accompanying conditions occurring on or about April 15, 1965.

OFFICE

Small Business Administration Regional Office, 2030 First Avenue, North, Birmingham, Ala., 35203.

2. Temporary offices will be established in such areas as are considered necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1965.

Dated: April 21, 1965.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 65-4571; Filed, Apr. 30, 1965; 8:45 a.m.]

[Declaration of Disaster Area 520]

NORTH DAKOTA

Declaration of Disaster Area

Whereas, it has been reported that during the month of April 1965, because of the effects of certain disasters, damage resulted to residences and business property located in Pembina, Walsh, and Grand Forks Counties in the State of North Dakota;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Office below indicated from persons or firms whose property, situated in the aforesaid counties and areas adjacent thereto, suffered damage or destruction resulting from floods and accompanying conditions occurring on or about April 17, 1965.

OFFICE

Small Business Administration Regional Office, 207 North Fifth Street, Fargo, N. Dak., 58102.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1965.

Dated: April 20, 1965.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 65-4572; Filed, Apr. 30, 1965; 8:45 a.m.]

[Declaration of Disaster Area 519]

TENNESSEE

Declaration of Disaster Area

Whereas, it has been reported that during the month of April 1965, because of the effects of certain disasters, damage resulted to residences and business property located in Bradley, Cumberland, and Knox Counties in the State of Tennessee;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid counties and areas adjacent thereto, suffered damage or destruction resulting from tornadoes and accompanying conditions occurring on or about April 14 and 15, 1965.

OFFICE

Small Business Administration Regional Office, 500 Union Street, Nashville, Tenn., 37219.

2. Temporary offices will be established in such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1965.

Dated: April 19, 1965.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 65-4573; Filed, Apr. 30, 1965; 8:45 a.m.]

[Delegation of Authority 30; Disaster 1]

FINDLAY, OHIO

Delegation Relating to Financial Assistance Functions

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 10), 30 F.R. 3254, there is hereby redelegated to the Manager of Findlay, Ohio Disaster Field Office the following authority.

A. *Financial assistance.* 1. To approve and decline disaster loans in an amount not exceeding $100,000.

2. To execute loan authorizations for Washington and Regional Office approved loans and for disaster loans approved under delegated authority, said execution to read as follows:

EUGENE P. FOLEY,
Administrator.

By ----------
Manager, Disaster Field Office.

3. To cancel, reinstate, modify and amend authorization for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Manager of the disaster field office.

Effective date: April 21, 1965.

HENRY P. KOSLING,
Regional Director,
Cleveland, Ohio.

[F.R. Doc. 65-4574; Filed, Apr. 30, 1965; 8:45 a.m.]

[Delegation of Authority 30; Disaster 2]

TOLEDO, OHIO

Delegation Relating to Financial Assistance Functions

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 10), 30 F.R. 3254, there is hereby redelegated to the Manager of Toledo, Ohio Disaster Field Office the following authority.

A. *Financial assistance.* 1. To approve and decline disaster loans in an amount not exceeding $100,000.

2. To execute loan authorizations for Washington and Regional Office approved loans and for disaster loans approved under delegated authority, said execution to read as follows:

EUGENE P. FOLEY, *Administrator.*
By _____
Manager, Disaster Field Office.

3. To cancel, reinstate, modify and amend authorization for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Manager of the disaster field office.

Effective date: April 21, 1965.

HENRY P. KOSLING,
Regional Director,
Cleveland, Ohio.

[F.R. Doc. 65-4575; Filed, Apr. 30, 1965; 8:45 a.m.]

[Delegation of Authority 30]

SAN ANTONIO, TEX.

Delegation of Authority To Conduct Program Activities in Southwestern Area

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 10), 30 F.R. 3253, the following authority is hereby redelegated to the Chief, Financial Assistance Division:

A. *Financial assistance.* 1. To approve business and disaster loans not exceeding $350,000.00 (SBA's share) when in concurrence with the specialist's recommendation.

2. To decline business and disaster loans of any amount, when in concurrence with the specialist's recommendation.

3. To disburse approved loans.

4. To enter into business loan and disaster loan participation agreement with banks.

5. To approve section 502 loans as follows:

a. Direct loans not exceeding $50,000.

b. Participation loans when the bank's share is 10 percent or more—not to exceed $100,000.

6. To decline loan applications in the categories described in Item I.A.5. above.

7. To execute Loan Authorizations for Washington approved loans and for loans approved in the Area Office and under delegated authority, said execution to read as follows:

(Name), *Administrator,*
By _____
(Name)
Chief, Financial Assistance Division (City)

8. To cancel, reinstate, modify and amend authorizations for business or disaster loans.

9. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

10. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

11. To approve service charges by participating bank not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

12. To take all necessary actions in connection with the administration, servicing, collection and liquidation of all loans and other obligations or assets, including collateral purchased; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator;

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale or special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

B. *Eligibility determinations.* To determine eligibility of applicants for financial assistance in accordance with Small Business Administration standards and policies.

C. *Size determinations.* To make initial size determinations in all financial assistance cases within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financial assistance purposes only.

II. The above authority cannot be redelegated.

III. All authority delegated herein may be exercised by any Small Business Administraiton employee designated as Acting Chief, Financial Assistance Division.

Effective date: April 15, 1965.

W. E. WOODMAN,
Acting Regional Director,
San Antonio, Tex.

[F.R. Doc. 65-4576; Filed, Apr. 30, 1965; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 28, 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. 39736—*Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 540), for interested rail carriers. Rates on soybeans, in carloads, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other states not subject to the same conditions.

Tariff—Supplement 30 to Texas-Louisiana Freight Bureau, agent, tariff I.C.C. 998.

AGGREGATE-OF-INTERMEDIATES

FSA No. 39737—*Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent, (No. 540), for interested rail carriers. Rates on soybeans, in carloads, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 30 to Texas-Louisiana Freight Bureau, agent, tariff I.C.C. 998.

By the Commission.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-4601; Filed, Apr. 30, 1965; 8:46 a.m.]

[Notice 1164]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 28, 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-67600. By order of April 26, 1965, the Transfer Board approved

the transfer to Mustang Transportation, Inc., Atlanta, Ga., of Certificates Nos. MC-118039, MC-118039 (Sub-No. 1), and MC-118039 (Sub-No. 4), issued November 17, 1961, April 5, 1963, and July 25, 1963, to A. V. Edmondson, Atlanta, Ga., authorizing the transportation, over irregular routes, of bananas, from New Orleans, La., Charleston, S.C., Mobile, Ala., Tampa and Port Everglades, Fla., to Atlanta, Ga., from New Orleans, La., and Charleston, S.C., to Knoxville, Tenn.; from New Orleans, La., to Gadsden, Ala., and Johnson City, Tenn., from Gulfport, Miss., to Atlanta, Ga.; and from Atlanta, Ga., to points in Alabama (except Birmingham), South Carolina and Tennessee; and cured hams, cured bacon, cured sausage, and fresh sausage, in vehicles equipped with mechanical refrigeration, from the site of the meat processing plants of Talmadge Farms, Inc., and Talmadge Farms Country Sausage, Inc., at or near Lovejoy (Clayton County), Ga., to points in Alabama, Florida, Louisiana, Mississippi, and South Carolina. Virgil H. Smith, 236 Title Building, Atlanta 3, Ga., attorney for applicants.

No. MC-FC-67643. By order of April 26, 1965, the Transfer Board approved the transfer to Ray W. Cummings, Malcom, Iowa, of the operating rights issued by the Commission June 23, 1949, under Certificate No. MC-94036, to Ray W. Cummings and Wayne M. McClure, a partnership, doing business as Cummings and McClure, Malcom, Iowa, authorizing the transportation, over irregular routes, of farm machinery, from Moline and Sandwich, Ill., to Malcom, Iowa, and points within 15 miles of Malcom, excluding towns in this area; feed, from Forest Park, Ill., to Malcom, Iowa, and livestock, between Malcom, Iowa, and points within 15 miles thereof, on the one hand, and, on the other, Chicago, Ill.

No. MC-FC-67735. By order of April 22, 1965, the Transfer Board approved the transfer to Claude S. Reed, Inc., Manchester, Md., of the permit in Nos. MC-108080, MC-108080 (Sub-No. 2), and MC-108080 (Sub-No. 4), issued August 29, 1947, September 26, 1960, and December 13, 1963, to Claude S. Reed, Manchester, Md., authorizing the transportation of: Silos and parts and accessories thereof, from White Marsh, Md., to points in New Jersey, Delaware, Pennsylvania, Maryland, West Virginia, Virginia, Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, and the District of Columbia, and from Falconer, N.Y., to points in Pennsylvania, Maryland, and Ohio as specified. Donald E. Freemen, 172 East Green Street, Post Office Box 880, Westminster, Md., 21157, representative for applicants.

No. MC-FC-67736. By order of April 23, 1965, the Transfer Board approved the transfer to Thelma G. Stuart, doing business as Stuart Trucking Co., West 2917 Holyoke Avenue, Spokane, Wash., of certificate in No. MC-59410, issued June 17, 1954, to John C. Stuart, doing business as Stuart Trucking Co., West 2917 Holyoke Avenue, Spokane, Wash., authorizing the transportation of: Manufactured forest products, grain, feed, poles, piling, milling machinery and equipment, building materials, livestock, and sand and gravel, between points in specified Idaho and Washington counties; lumber, brick, and sewer tile, in truckloads, between points in specified Idaho and Washington counties; lumber, except millwork, in truckloads, from points in Bonner County, Idaho, to points in specified Washington counties; building logs, and moldings and mastick, used in the erection of building logs, and lumber, shakes, and shingles, from points in Sanders County, Mont., to points in Washington and those in specified Idaho counties; and lumber, from points in Mineral County, Mont., to points in specified counties in Idaho and Washington.

No. MC-FC-67742. By order of April 20, 1965, the Transfer Board approved the transfer to Harry Mahally, Jr. and Lawrence P. Mahally, doing business as Mahally Trucking Service, Wilkes-Barre, Pa., of the operating rights in Certificate No. MC-24060 issued March 21, 1941, to Harry Mahally, doing business as Mahally Trucking Service, Wilkes-Barre, Pa., authorizing the transportation, over irregular routes, of: Household goods, between Wilkes-Barre, Pa., and points within 10 miles thereof, on the one hand, and, on the other, points in Connecticut, Ohio, New York, New Jersey, Maryland, West Virginia, Michigan, Virginia, South Carolina, and the District of Columbia. John J. Dempsey, Jr., Suite 1200, Miners National Bank Building, Wilkes-Barre, Pa., attorney for applicants.

No. MC-FC-67745. By order of April 20, 1965, the Transfer Board approved the transfer to V. Darrell Adamson & Robert E. Matthews, a partnership, doing business as Arrow Transfer, O'Neill, Nebr., of the operating rights in Certificates Nos. MC-99109 (Sub-No. 1) and MC-99109 (Sub-No. 3) issued February 10, 1958, and June 19, 1964, to Marvin C. Frisch, doing business as Heuton Transfer, Atkinson, Nebr., authorizing the transportation, over irregular routes, of: General commodities, with the usual exceptions, between points in Nebraska and Iowa. J. Max Harding, 14th and J Streets, Lincoln, Nebr., attorney for applicants.

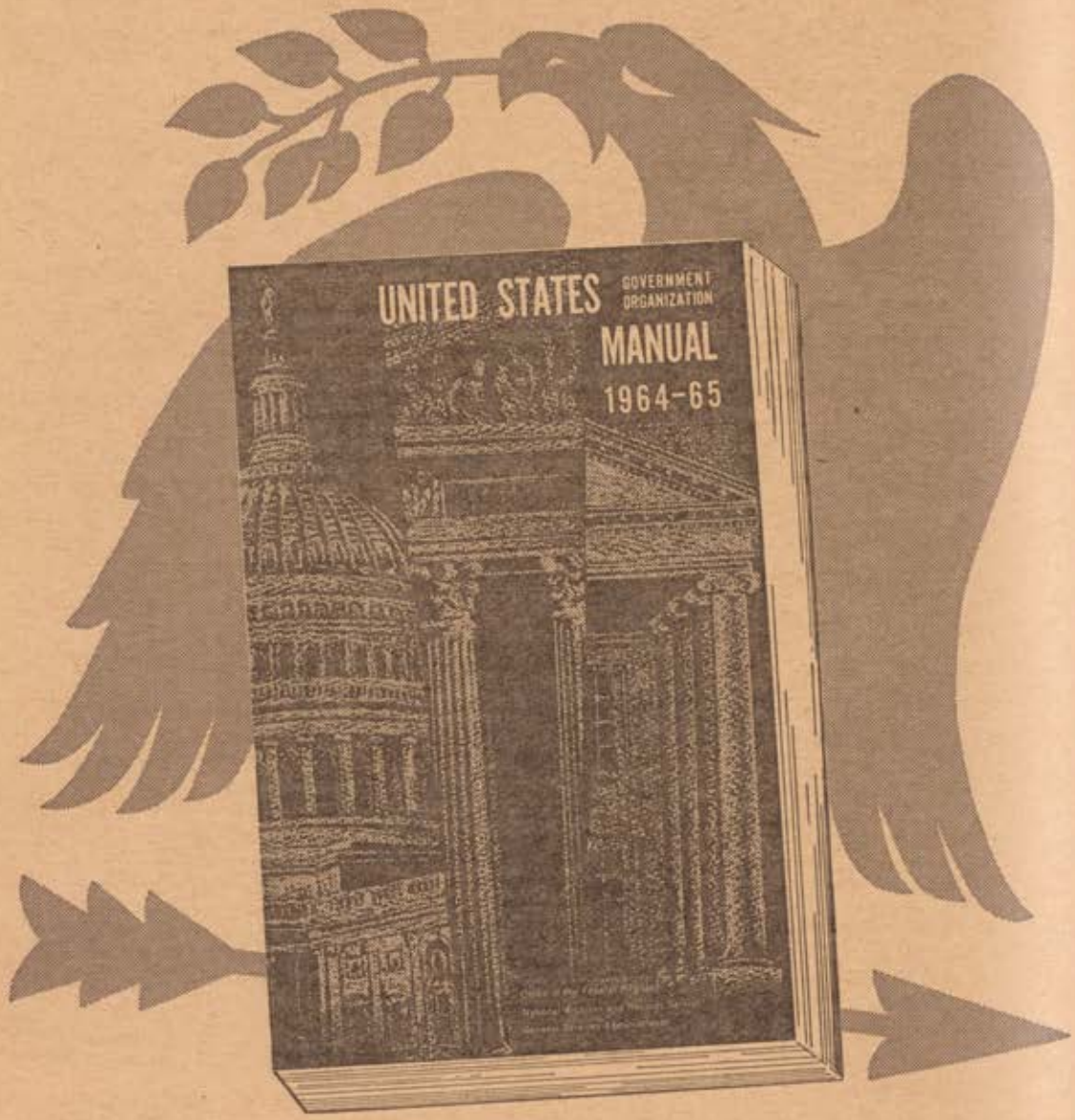
No. MC-FC-67752. By order of April 20, 1965, the Transfer Board approved the transfer to Joseph Arthur Trudeau, doing business as J. Arthur Trudeau & Sons, Warwick, R.I., of the operating rights in Certificate No. MC-73516, issued February 22, 1943, to John Doods, Providence, R.I., authorizing the transportation, over irregular routes, of: Household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Providence, East Providence and West Warwick, R.I., on the one hand, and, on the other, points and places in New Hampshire, Connecticut, Massachusetts, New Jersey, New York, and Philadelphia, Pa., Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, R.I. 02905, representative for applicants.

No. MC-FC-67753. By order of April 20, 1965, the Transfer Board approved the transfer to McGiffen Milk Delivery, Inc., Vincennes, Ind., of the operating rights in Certificate No. MC-124379 issued February 21, 1963, to Webster McGiffen, doing business as Milk Delivery Service, Vincennes, Ind., authorizing the transportation, over irregular routes, of: Dairy products, as described in Section B of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 (except poultry, dead, dressed, and rabbits, dead), and milk or cream mixtures, liquid dietary foods, fruit segments, ice cream mix, orange juice, fruit juice drinks, and cottage cheese, in containers, between Louisville, Ky., and specified points and areas in Illinois and Indiana. Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind., 46204, attorney for applicants.

No. MC-FC-67754. By order of April 20, 1965, the Transfer Board approved the transfer to Oregon-Washington Transfer & Storage, Inc., Seattle, Wash., of a portion of the operating rights in Certificate No. MC-30023, issued January 20, 1964, to A. H. Spear and T. J. Burke, a partnership, doing business as Arrow Transfer & Storage Co., Seattle, Wash., authorizing the transportation, over irregular routes, of: Household goods, between Seattle, Wash., and Portland, Oreg. George R. LaBissoniere, 533 Central Building, Seattle, Wash., 98104, attorney for applicants.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-4602; Filed, Apr. 30, 1965; 8:46 a.m.]



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