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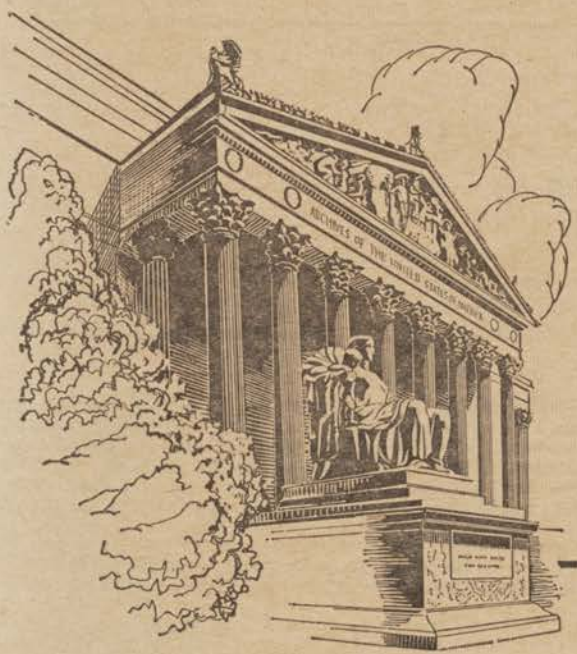

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(Codification Guide)

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Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 235—INSPECTION OF ALIENS APPLYING FOR ADMISSION

Canadian Border Boat Landing Card

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

Section 235.1 is amended by amending the headnote, designating the existing text as paragraph (a), and by adding a paragraph (b) to read as follows:

§ 235.1 **Qualifications.**

(a) *General.* * * *

(b) *Canadian nationals and other residents of Canada having a common nationality with Canadians entering the United States by small craft.* Upon being inspected and found eligible for admission as a temporary visitor for pleasure by an immigration officer, a Canadian national or other resident of Canada having a common nationality with Canadians who desires to enter the United States from Canada in a small pleasure craft of less than 5 net tons without merchandise to make visits of less than 24 hours to the immediate shore area of the United States bordering on lakes and rivers lying between the United States and Canada may be issued, without application or fee, Form I–68, Canadian Border Boat Landing Card, and may thereafter be permitted to make visits of less than 24 hours to the immediate shore area of the United States on the body of water designated on the Form I–68, from time to time for the duration of that navigation season without further inspection. If the bearer of Form I–68 seeks to enter the United States by means other than small pleasure craft of less than 5 net tons without merchandise, or if he seeks to enter the United States for other purposes, or to proceed inland from the immediate shore area of the United States, he must apply for admission at a United States port of entry as provided in paragraph (a) of this section.

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

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

Dated: June 29, 1966.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 66–7301; Filed, July 1, 1966; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. D, Q]

PART 204—RESERVES OF MEMBER BANKS

PART 217—PAYMENT OF INTEREST ON DEPOSITS

Certain Promissory Notes

1. Effective September 1, 1966, §§ 204.1 and 217.1 are amended as follows:

a. Paragraphs (f), (g), (h), and (i) of § 204.1 are redesignated as paragraphs (g), (h), (i), and (j), respectively.

b. A new paragraph (f) is inserted in §§ 204.1 and 217.1 as follows:

(f) *Deposits as including certain promissory notes.* For the purposes of this part, the term "deposits" shall be deemed to include any promissory note, acknowledgment of advance, due bill, or similar instrument that is issued by a member bank principally as a means of obtaining funds to be used in its banking business, except any such instrument (1) that is issued to another bank, (2) that evidences an indebtedness arising from a transfer of assets that the bank is obligated to repurchase, or (3) that has an original maturity of more than 2 years and states expressly that it is subordinated to the claims of depositors. This paragraph shall not, however, affect the status, for purposes of this part, of any instrument issued before June 27, 1966.

2a. This amendment is issued under the Board's authority to prevent evasions of the purposes of section 19 of the Federal Reserve Act (12 U.S.C. 461). It is designed to bring within the coverage of Regulations D and Q promissory notes and similar instruments of the type that banks have developed in recent years as a means of obtaining funds for use in the ordinary course of their banking business.

b. Notices of proposed rule making with respect to this amendment were published in the FEDERAL REGISTER of January 26, 1966 (31 F.R. 1010) and of April 2, 1966 (31 F.R. 5320). The amendment was adopted by the Board after consideration of all relevant material, including responses received from interested persons pursuant to those notices.

Dated at Washington, D.C., this 27th day of June 1966.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 66–7269; Filed, July 1, 1966; 8:46 a.m.]

[Reg. D]

PART 204—RESERVES OF MEMBER BANKS

Reserve Percentages

1. Effective as to member banks in reserve cities at the opening of business on July 14, 1966, and as to all other member banks at the opening of business on July 21, 1966, § 204.5 (Supplement to Regulation D) is amended to read as follows:

§ 204.5 **Supplement.**

(a) *Reserve percentages.* Pursuant to the provisions of section 19 of the Federal Reserve Act and § 204.2(a) and subject to paragraph (b) of this section, the Board of Governors of the Federal Reserve System hereby prescribes the following reserve balances which each member bank of the Federal Reserve System is required to maintain on deposit with the Federal Reserve bank of its district:

(1) If not in a reserve city—

(i) 4 percent of its savings deposits, plus

(ii) 4 percent of its other time deposits up to $5 million and 5 percent of such deposits in excess of $5 million, plus

(iii) 12 percent of its net demand deposits.

(2) If in a reserve city (except as to any bank located in such a city which is permitted by the Board of Governors of the Federal Reserve System, pursuant to § 204.2(a)(2), to maintain the reserves specified in subparagraph (1) of this paragraph)—

i) 4 percent of its savings deposits, plus

(ii) 4 percent of its other time deposits up to $5 million and 5 percent of such deposits in excess of $5 million, plus

(iii) 16½ percent of its net demand deposits.

(b) *Counting of currency and coin.* The amount of a member bank's currency and coin shall be counted as reserves in determining compliance with the reserve requirements of paragraph (a) of this section.

2a. This amendment is issued pursuant to the authority granted to the Board of Governors by section 19 of the Federal Reserve Act to change reserve requirements to prevent injurious credit

expansion or contraction (12 U.S.C. 462b). The only change is to increase the reserves that must be maintained against time deposits (other than savings deposits) in excess of $5 million from 4 percent to 5 percent.

b. There was no notice and public participation with respect to this amendment as such procedure would result in delay that would be contrary to the public interest and serve no useful purpose. (See § 262.1(e) of the Board's rules of procedure (12 CFR 262.1(e)).)

Dated at Washington, D.C., this 27th day of June 1966.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 66-7268; Filed, July 1, 1966; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-7906]

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

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Fees for Brokers and Dealers Not Members of National Securities Association

On May 16, 1966, in Securities Exchange Act Release No. 7889, and in the FEDERAL REGISTER of May 19, 1966 (31 F.R. 7289) as corrected in the FEDERAL REGISTER of May 24, 1966 (31 F.R. 7484), the Securities and Exchange Commission published its revised proposal to adopt Rule 15b8-2 (17 CFR § 240.15b8-2) and related Forms SECO-4 (17 CFR § 249.504) and SECO-5 (17 CFR § 249.505) under the Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.). The Commission has considered the comments and suggestions received and has adopted the rule and forms as stated below, effective August 1, 1966.

Among other things, Rule 15b8-2 (17 CFR § 240.15b8-2) establishes fees for fiscal 1966 for brokers and dealers who were registered with the Commission for at least 45 days and were not members of a registered national securities association[1] on June 30, 1966. The rule also requires a fee of all brokers and dealers who although members of a registered national securities association on the effective date of the rule, were, at some time during fiscal 1966, both registered with the Commission and not members of such an association.[2]

The following fees imposed by Rule 15b8-2 (17 CFR § 240.15b8-2) must be paid, and Form SECO-4 (17 CFR § 249.504) (the assessment form) be filed, or on before August 15, 1966: (1) A base fee of $150 for each nonmember broker or dealer; (2) $7 for each associated person engaged directly or indirectly in securities activities for or on behalf of the broker or dealer at any time during the fiscal year; and (3) $30 for each office[3] of the broker or dealer open at any time during the fiscal year.

The rule provides that in no case shall any broker or dealer have to pay more than $15,000 by virtue of factors (1) and (2)—the base fee plus the $7 per capita fee indicated above. The fee of $30 for each office may not be included in the computation of the $15,000 maximum.

Brokers and dealers registered with the Commission (and not members of a registered national securities association) on the effective date of the rule who had been so registered for less than 6 months during the fiscal year will be required to pay half the fee.[4] Members of a registered national securities association who were both registered with the Commission and not members of such an association for a period of at least 45 days (but less than 6 months) during fiscal 1966 will pay only half the fee. Broker-dealers who for more than 6 months were both registered with the Commission and not members of such an association will pay the entire fee.

Rule 15b8-2 (17 CFR § 240.15b8-2) also requires that brokers and dealers registering with the Commission after the effective date of the rule who do not become members of a registered national securities association within 45 days after the effective date of their registration with the Commission pay a fee of $150. The same $150 fee is required of firms whose membership in a registered national securities association is terminated after the effective date of the rule and which continue to be registered with the Commission for a period of 45 days after such termination of membership.[5] Form SECO-5 (17 CFR § 249.505), the initial assessment form, must be filed when this fee is paid.

The rule establishes a fee of $25 for each Form SECO-2 (17 CFR § 249.502) filed after August 1, 1966 pursuant to Rule 15b8-1 (17 CFR § 240.15b8-1) for each person for whom a nonmember broker or dealer has not previously filed such a form. This fee does not apply to Forms SECO-2 (17 CFR § 249.502) filed for associated persons who confine their securities activities to areas outside the jurisdiction of the United States and do not deal with any U.S. residents or nationals. This fee must be paid concurrently with the filing of the forms.

Rule 15b8-2 (17 CFR § 240.15b8-2) imposes an additional fee of $100 upon brokers or dealers who fail to pay any of the fees (other than the $25 filing fee) as and when required by the rule. This additional fee is to defray the extra administrative costs incurred by the Commission as a result of such failure to comply with the rule.

Finally, Rule 15b8-2 (17 CFR § 240.-15b8-2) exempts from the fee provisions of paragraphs (a), (b), (c), (d), or (f) of the rule members of a national securities exchange who (1) carry no customer accounts and (2) derive less than $1,000 income from over-the-counter securities transactions. Each such broker or dealer must nevertheless file Form SECO-4 (17 CFR § 249.504) or Form SECO-5 (17 CFR § 249.505) as appropriate and indicate therein whether he claims this exemption.

Copies of Forms SECO-4 (17 CFR § 249.504) and SECO-5 (17 CFR § 249.-505) may be obtained from the Commission's main office, 500 North Capitol Street NW., Washington, D.C. 20549 or its regional offices.

Statutory basis. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 15(b)(8), 15(b)(9), and 23(a) thereof, deeming such action necessary and appropriate in the public interest and for the protection of investors and to prescribe reasonable fees pursuant to sections 15(b)(8) and 15(b)(9) for registered brokers and dealers not members of a registered national securities association, and also deeming such action necessary for the execution of the functions vested in the Commission by the Act, hereby adopts Rule 15b8-2 (17 CFR § 240.15b8-2) and related Forms SECO-4 (17 CFR § 249.504) and SECO-5 (17 CFR § 249.505) as stated below, effective August 1, 1966.

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[1] At present the National Association of Securities Dealers, Inc. ("NASD") is the only such association.

[2] Fees for fiscal 1967 and subsequent years will be established by later rules. However, Rule 15b8-2 (17 CFR § 240.15b8-2) provides for a continuing basic registration fee of $150 for new broker-dealers who do not join the NASD. The rule also requires a permanent fee of $25 for each Form SECO-2 (17 CFR § 249.502) filed after August 1, 1966, for each associated person for whom the broker-dealer had not previously filed a form.

[3] The term "office" is defined in the rule to mean every place or establishment owned or controlled by a broker or dealer in or from which the broker or dealer engages in the securities business. A broker or dealer shall be deemed to own or control an office if he pays a substantial portion of the costs thereof, including rent and taxes. The term is not intended to mean the dwelling of an associated person if a broker or dealer does not bear a substantial portion of the cost or expenses of such dwelling. It is intended, however, to include the dwelling of a sole proprietor if he conducts securities business therefrom.

[4] The fee for such a firm would be: (1) $75 plus (2) $3.50 for each associated person engaged in securities activities, and (3) $15 for each office. Factors (1) and (2) are still subject to a $15,000 maximum, and the $15 office fee is not.

[5] Termination of membership in a registered national securities association automatically subjects a registered broker-dealer to sections 15(b)(8), (9), and (10) of the Act and all rules and regulations threunder.

§ 240.15b8–2 Fees for registered brokers and dealers who are not members of a registered national securities association.

(a) Every broker or dealer registered with the Commission on June 30, 1966, who on such date had been so registered for at least 45 days and was not a member of a registered national securities association shall, on or before August 15, 1966, file Form SECO–4 (§ 249.504 of this chapter) and pay to the Commission a fee for the fiscal year beginning July 1, 1965, and ending June 30, 1966. The total amount of such fee shall be the sum of the following: (1) A base fee of $150; plus (2) $7 for each associated person engaged, directly or indirectly, in securities activities for or on behalf of the broker or dealer at any time between July 1, 1965, and June 30, 1966; plus (3) $30 for each office of the broker or dealer which had been open for business at any time between July 1, 1965, and June 30, 1966.

(b) Every broker or dealer registered with the Commission and a member of a registered national securities association on August 1, 1966, who, for at least 45 days during the period from July 1, 1965, to June 30, 1966, was both registered with the Commission and not a member of such an association shall, on or before August 15, 1966, file Form SECO–4 (§ 249.504 of this chapter) and pay to the Commission the fee provided for in paragraph (a) of this section.

(c) Every broker or dealer subject to paragraph (a) or (b) of this section who during the period from July 1, 1965, to June 30, 1966, was registered with the Commission for less than 6 months or who was a member of a registered national securities association for more than 6 months shall pay only half the fee provided for in paragraph (a) of this section.

(d) In no case shall the amount due by any broker or dealer under subparagraphs (1) and (2) of paragraph (a) of this section exceed $15,000.

(e) (1) Every broker or dealer who becomes registered as a broker or dealer with the Commission after August 1, 1966, and who does not become a member of a registered national securities association within 45 days after the effective date of such registration, shall within such 45-day period, file Form SECO–5 (§ 249.505 of this chapter) and pay to the Commission a fee of $150.

(2) Every registered broker or dealer whose membership in a registered national securities association is terminated for any reason after August 1, 1966, and who continues to be registered with the Commission for 45 days after such termination of membership shall, within such 45-day period, file Form SECO–5 (§ 249.505 of this chapter) and pay to the Commission a fee of $150.

(f) Every broker or dealer who is registered with the Commission and not a member of a registered national securities association shall pay to the Commission a fee of $25 for each Form SECO–2 (§ 249.502 of this chapter) filed after August 1, 1966, by such broker or dealer pursuant to § 240.15b8–1: *Provided, however,* That this paragraph shall not apply to any Form SECO–2 (§ 249.502 of this chapter) filed for any associated person (1) for whom a Form SECO–2 (§ 249.502 of this chapter) previously had been filed by such broker or dealer, or (2) who confines his securities activities to areas outside the jurisdiction of the United States, and who does not deal with any U.S. resident or national.

(g) Every broker or dealer who fails to pay fees, except those required by paragraph (f) of this section, as and when required by this section shall pay an additional fee of $100 to defray administrative costs incurred by the Commission as a result of such failure.

(h) Any broker or dealer who is a member of a national securities exchange shall not be required to pay the fees required by paragraph (a), (b), (c), (d), or (f) of this section if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange is in an amount no greater than $1,000. Each such broker or dealer shall nevertheless file Form SECO–4 (§ 249.504 of this chapter) or Form SECO–5 (§ 249.505 of this chapter) as required by this section.

(i) No broker or dealer subject to this section shall effect any transaction in, or induce the purchase or sale of, any security otherwise than on a national securities exchange unless he has complied with the applicable provisions of this section.

(j) For the purposes of this section:

(1) The term "associated person" shall mean any partner, officer, director, or branch manager of a broker or dealer (or any person occupying a similar status or performing similar functions), or any natural person directly or indirectly controlling or controlled by such broker or dealer, and shall include any employee of such broker or dealer (other than employees whose functions are clerical or ministerial), and any broker or dealer conducting business as a sole proprietor.

(2) The term "office" shall mean every place or establishment which is owned or controlled by a broker or dealer in or from which the broker or dealer engages in the securities business.

(Secs. 15(b)(8), 15(b)(9), and 23(a); 78 Stat. 372–3, 48 Stat. 901, as amended, 15 U.S.C. 78o, 78w)

In connection with Rule 15b8–2 (17 CFR § 240.15b8–2) Subpart F of Part 249 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding thereto § 249.504 and § 249.505, as follows:

§ 249.504 Form SECO–4, 1966 assessment and information form for registered brokers and dealers not members of a registered national securities association.

(Copies of the form have been filed with the original of this document. Additional copies can be obtained from the Commission's headquarters office or its regional offices.)

§ 249.505 Form SECO–5, initial assessment and information form for registered brokers and dealers not members of a registered national securities association.

(Copies of this form have been filed with the original of this document. Additional copies can be obtained from the Commission's headquarters office or its regional offices.)

(Secs. 15(b)(8), 15(b)(9), and 23(a); 78 Stat. 572–3, 48 Stat. 901, as amended, 15 U.S.C. 78o, 78w)

By the Commission.

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

JUNE 30, 1966.

[F.R. Doc. 66–7309; Filed, July 1, 1966; 8:50 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Postponement of Closing Dates of Provisional Listings; Deletions From Provisional Lists

The color additive amendments of 1960 (Public Law 86–618; 74 Stat. 404; 21 U.S.C. 376, note) authorize the Secretary of Health, Education, and Welfare to postpone the closing date of a provisional listing of a color additive on his own initiative or upon application of an interested person. Requests have been received to postpone the closing dates of provisional listings of a number of color additives because scientific investigations necessary for listing these color additives under section 706 of the Federal, Food, Drug, and Cosmetic Act have not been completed. It is found that postponement of the closing dates of the provisionally listed color additives included in this order will not be contrary to the interests of the public health. Any extensions so granted are conditioned upon a requirement that progress reports be supplied on or before January 1, 1967.

The closing date of the provisional listing of iron oxide as a color additive for use in pet foods is terminated. On January 1, 1966, the closing date of its provisional listing was postponed to January 1, 1967, on the basis that scientific investigations to establish the safety of iron oxide for use in pet foods were under way. Information has been received that these investigations have been terminated because the sponsor of the studies had no further commercial interest in the use of iron oxide.

A number of provisionally listed color additives have been permanently listed, and accordingly these items are deleted from the provisional lists.

Therefore, pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (sec. 203(a)(2), Public Law 86–618;

74 Stat. 404; 21 U.S.C. 376, note), and delegated by the Secretary to the Commissioner of Food and Drugs (21 CFR 2.120; 31 F.R. 3008), § 8.501 *Provisional lists of color additives* is amended in the following respects:

1. Paragraphs (a), (b), and (c) are amended by changing the closing dates of all of the items therein to July 1, 1967.

2. Paragraph (e) is amended by deleting the following items:

Beet juice.
Iron oxides.
Paprika and paprika oleoresin.
Saffron (*Crocus sativus L.*) and its oleoresin.
Turmeric and curcumin.

In order to allow orderly withdrawal from the market of iron oxide and in the absence of information that the continued use of this color additive will adversely affect the health of animals, the Food and Drug Administration will not institute regulatory action against the color additive or the articles in which it has been permitted to be used solely for the reason that it is not provisionally or permanently listed as a color additive for the period ending December 31, 1966.

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since section 203 (a)(2) of Public Law 86-618 provides for this issuance.

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

(Sec. 203(a)(2), Public Law 86-618; 74 Stat. 404; 21 U.S.C. 376, note)

Dated: June 24, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 66-7287; Filed, July 1, 1966; 8:47 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SILICON DIOXIDE

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 6A1958) filed by W. R. Grace & Co., Davison Chemical Division, Baltimore, Md. 21203, and other relevant material, has concluded that the food additive regulations should be amended to provide for wider use of silicon dioxide as an anticaking agent in food consistent with accomplishment of the intended physical effect and in accord with good manufacturing practice.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), § 121.1058 is amended by revising the introduction to the section and paragraph (b) to read as follows:

§ 121.1058 Silicon dioxide.

The food additive silicon dioxide may be safely used in food in accordance with the following conditions:

* * * * *

(b) It is used as an anticaking agent, subject to the following conditions:

(1) It is used in only those foods in which the additive has been demonstrated to have an anticaking effect.

(2) It is used in an amount not in excess of that reasonably required to produce its intended effect.

(3) It is not to be used in infant foods except when present as an anticaking agent at a level not to exceed 2 percent in salt and salt substitutes used as components of these foods.

(4) It is used in an amount not to exceed 2 percent by weight of the food.

* * * * *

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

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

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

Dated: June 27, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-7288; Filed, July 1, 1966; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 6B1879) filed by Interchemical Corp., Finishes Division, 1255 Broad Street, Clifton, N.J. 07015, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of certain acrylic copolymers as modifiers for epoxy resins used in resinous and polymeric food-contact coatings. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), § 121.2514(b)(3)(xx) is amended by inserting alphabetically in the list of acrylic polymers a new item as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xx) Acrylics and their copolymers, as the basic polymer:

* * * * *

2-Ethylhexyl acrylate-methyl methacrylate-acrylic acid copolymers for use only as modifiers for epoxy resins listed in subdivision (viii) of this subparagraph.

* * * * *

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

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

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

Dated: June 24, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-7290; Filed, July 1, 1966; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD

An order was published in the FEDERAL REGISTER of February 25, 1965 (30 F.R. 2430), amending certain food additive regulations with respect to food additives resulting from substances used

as components of the food-contact surface of paper and paperboard. In the preamble of the order it was noted that the item "Petroleum sulfonate produced by sulfonating a straight-chain aliphatic hydrocarbon of the C_{12}–C_{18} range," which was in the proposal published in the FEDERAL REGISTER of June 16, 1964 (29 F.R. 7687), had been omitted pending clarification of chemical identity. The Commissioner of Food and Drugs has evaluated additional information submitted by the petitioner (FAP 1B0492), BASF Colors and Chemicals, Inc., 845 Third Avenue, New York, N.Y. 10022, and has concluded that the petitioned additive should be identified as set forth below and that § 121.2526 should be amended to provide for the safe use of the additive as a component of the food-contact surface of paper and paperboard.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), § 121.2526(b)(2) is amended by inserting alphabetically in the list of substances a new item as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
n - Alkylsulfonate (alkyl group is even - numbered in the range C_{12}-C_{18} and not less than 50 percent C_{14} and C_{16}).	For use only as an emulsifier for vinylidene chloride copolymer coatings and limited to use at a level not to exceed 2 percent by weight of the coating solids.

* * * * *

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

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

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

Dated: June 24, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-7289; Filed, July 1, 1966; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS

Chloramphenicol-Paromomycin Ointment

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120; 31 F.R. 3008), the antibiotic drug regulations are amended to change the maximum expiration date for the subject drug from 36 months to up to 60 months within certain conditions. Accordingly, § 146d.316(b) is amended to read as follows:

§ 146d.316 Chloramphenicol-paromomycin ointment.

* * * * *

(b) In addition to the labeling prescribed for chloramphenicol ointment by § 146d.303, each package shall bear on its label and labeling the number of milligrams of paromomycin activity in each gram of the batch. The expiration date of the drug shall be 24 months after the month during which the batch was certified, except that an expiration date that is 36, 42, 48, 54, or 60 months after the month during which the batch was certified may be used if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by this section.

* * * * *

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since the changes are such that they cannot be applied to any specific product unless its manufacturer has supplied adequate data regarding that article.

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

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

Dated: June 24, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-7291; Filed, July 1, 1966; 8:48 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 3—NATIONAL CAPITAL REGION REGULATIONS

Commercial Vehicles and Common Carriers

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), it is proposed to amend 36 CFR 3.36(c) as set forth below.

The purpose of the amendment is to permit the operation of commercial trucks on Constitution Avenue between 18th and 19th Streets NW.

The amendment to National Park Service regulations regarding commercial trucks in park areas contained herein is adopted effective June 20, 1966, in order to promote traffic safety.

The Commissioners of the District of Columbia have found traffic safety in the District of Columbia will be furthered by making 18th Street NW., between Virginia and Constitution Avenues one-way north and making 19th Street NW., between Virginia and Constitution Avenues one-way south. The beneficial effect to traffic safety resulting from this change in traffic regulations will not be obtained unless the Department of the Interior permits commercial trucks on Constitution Avenue between 18th and 19th Streets NW. The order of the District of Columbia Commissioners concerning traffic on 18th and 19th Streets NW., shall become effective June 20, 1966. Since the change in traffic regulations ordered by the Commissioners and the Secretary of the Interior must be carried out simultaneously to be effective, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003) is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

Paragraph (c) of § 3.36 is amended to read as follows:

§ 3.36 Commercial vehicles and common carriers.

* * * * *

(c) *Commercial trucks.* The use of any park road by commercial trucks when such trucking is in no way connected with the operation of the park system is prohibited, except (1) on the section of Constitution Avenue east of 19th Street, (2) that in special cases, trucking permits may be issued at the discretion of the Superintendent.

* * * * *

STEWART L. UDALL,
Secretary of the Interior.

JUNE 28, 1966.

[F.R. Doc. 66-7272; Filed, July 1, 1966; 8:50 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4042]

[Anchorage 061753]

ALASKA

Revocation of Withdrawals for Townsite and Military Purposes

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and section 1 of the act of March 12, 1914 (38 Stat. 305; 48 U.S.C. 303), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Executive Orders No. 2216 of June 22, 1915, and No. 3672 of May 8, 1922, withdrawing lands for townsite purposes, and Executive Order No. 6626 of March 5, 1934, withdrawing lands for use of the War Department, are hereby revoked so far as they affect the following described land:

ANCHORAGE TOWNSITE

BLOCK 21, LOT 8

Containing 0.16-acre.

The land is nonpublic land.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JUNE 28, 1966.

[F.R. Doc. 66-7271; Filed, July 1, 1966; 8:46 a.m.]

Subtitle A—Office of the Secretary of the Interior

PART 8—JOINT POLICIES OF THE DEPARTMENTS OF THE INTERIOR AND OF THE ARMY RELATIVE TO RESERVOIR PROJECT LANDS

JUNE 28, 1966.

A joint policy statement of the Department of the Interior and the Department of the Army was inadvertently issued as a Notice in 27 F.R. 1734. Publication should have been made as a final rule replacing regulations then appearing in 43 CFR Part 8. The policy as it appears in 27 F.R. 1734 has been the policy of the Department of the Interior and the Department of the Army since its publication as a Notice and is now codified as set forth below.

GEORGE E. ROBINSON,
Deputy Assistant Secretary for Administration.

JUNE 28, 1966.

Sec.

AUTHORITY: The provisions of this Part 8 issued under sec. 7, 32 Stat. 389, sec. 14, 53 Stat. 1197; 43 U.S.C. 421, 389.

§ 8.0 Acquisition of lands for reservoir projects.

In so far as permitted by law, it is the policy of the Departments of the Interior and of the Army to acquire, as a part of reservoir project construction, adequate interest in lands necessary for the realization of optimum values for all purposes including additional land areas to assure full realization of optimum present and future outdoor recreational and fish and wildlife potentials of each reservoir.

§ 8.1 Lands for reservoir construction and operation.

The fee title will be acquired to the following:

(a) Lands necessary for permanent structures.

(b) Lands below the maximum flowage line of the reservoir including lands below a selected freeboard where necessary to safeguard against the effects of saturation, wave action, and bank erosion and to permit induced surcharge operation.

(c) Lands needed to provide for public access to the maximum flowage line as described in paragraph 1b, or for operation and maintenance of the project.

§ 8.2 Additional lands for correlative purposes.

The fee title will be acquired for the following:

(a) Such lands as are needed to meet present and future requirements for fish and wildlife as determined pursuant to the Fish and Wildlife Coordination Act.

(b) Such lands as are needed to meet present and future public requirements for outdoor recreation, as may be authorized by Congress.

§ 8.3 Easements.

Easements in lieu of fee title may be taken only for lands that meet all of the following conditions:

(a) Lands lying above the storage pool.

(b) Lands in remote portions of the project area.

(c) Lands determined to be of no substantial value for protection or enhancement of fish and wildlife resources, or for public outdoor recreation.

(d) It is to the financial advantage of the Government to take easements in lieu of fee title.

§ 8.4 Blocking out.

Blocking out will be accomplished in accordance with sound real estate practices, for example, on minor sectional subdivision lines; and normally, land will not be acquired to avoid severance damage if the owner will waive such damage.

§ 8.5 Mineral rights.

Mineral, oil and gas rights will not be acquired except where the development thereof would interfere with project purposes, but mineral rights not acquired will be subordinated to the Government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access.

§ 8.6 Buildings.

Buildings for human occupancy as well as other structures which would interfere with the operation of the project for any project purpose will be prohibited on reservoir project lands.

[F.R. Doc. 66-7273; Filed, July 1, 1966; 8:50 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 256—FISHING VESSEL CONSTRUCTION DIFFERENTIAL SUBSIDY PROCEDURES

On page 16088 of the FEDERAL REGISTER of December 2, 1964, there was published a notice and text of a proposed revision of Part 256. These regulations became effective on December 22, 1964. The amendment set forth herein provides a procedure for the payment of subsidy relaxing current restrictions contained in § 256.10 of Part 256 Code of Federal Regulations in order that subsidy payments may be made in accordance with the terms of the subsidy contract if agreed by the Maritime Administrator.

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

Section 256.10 is amended by adding the following paragraph (d):

§ 256.10 Payment of subsidy.

(d) If the Maritime Administrator agrees, by his clearance of a payment schedule set forth in a pro forma construction contract to accompany a request for bids, that it is in the public interest to allow the percentage of the subsidized construction cost withheld to be less than 30 percent of the subsidized construction cost, then the subsidy contract executed in connection with such construction contract shall reflect payment in accordance with such payment schedule.

HAROLD E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

JUNE 29, 1966.

[F.R. Doc. 66-7296; Filed, July 1, 1966; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 7462; Amdt. 39-256]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Model JT3C-7 and JT3C-12 Turbojet Engines

There has been a failure of a Pratt & Whitney Model JT3C-7 turbojet engine as a result of a fractured fourth stage compressor rotor disc spacer. Since this condition is likely to exist or develop in other engines of the same design, an airworthiness directive is being issued to require repetitive inspection of the fourth stage compressor rotor disc spacer assembly and replacement as necessary on Pratt & Whitney Model JT3C-7 and JT3C-12 turbojet engines.

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

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

PRATT & WHITNEY. Applies to Model JT3C-7 and JT3C-12 turbojet engines.

Compliance required as indicated.

To prevent further failures of fourth stage compressor rotor disc spacer assemblies, accomplish the following:

(a) For fourth stage compressor rotor disc spacer assemblies, P/N 359413, with 1,000 or more hours' time in service since last overhaul, comply with paragraph (c) within the next 50 hours' time in service after the effective date of this AD, unless already accomplished within the last 575 hours' time in service, and thereafter at intervals not to exceed 625 hours' time in service from the last inspection until installation of assembly, P/N 429177.

(b) For fourth stage compressor rotor disc spacer assemblies, P/N 359413, with less than 1,000 hours' time in service since last overhaul, comply with paragraph (c) before the accumulation of 1,050 hours' time in service since last overhaul, unless already accomplished after the accumulation of 425 hours' time in service since last overhaul, and thereafter at intervals not to exceed 625 hours' time in service from the last inspection until installation of assembly, P/N 429177.

(c) Drill an inspection hole and install a plug in the compressor case and fourth stage vane and shroud assembly in accordance with Pratt & Whitney Aircraft letter dated April 15, 1966, and sketches PWA 15814 and SL61447. Using an American Cystoscope Makers, Inc., Model B-175-AS-15, B-110-AS-15 instrument (or FAA-approved equivalent) inserted through this hole, inspect the fourth stage compressor rotor disc spacer assembly for indication of cracks in visible areas of the spacer. If any indications of cracks are found, remove the engine before further flight, disassemble, and reinspect. If, after disassembly, no cracks are found, the engine may be returned to service. Replace any cracked spacer assemblies before further flight with an assembly of the same part number or P/N 429177.

NOTE: During the inspection required by paragraph (c), particular attention should be directed to the front and rear seal edges.

(d) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective July 2, 1966.

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

Issued in Washington, D.C., on June 28, 1966.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[FR. Doc. 66-7254; Filed, July 1, 1966; 8:45 a.m.]

[Airspace Docket No. 65-WE-87]

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

Designation of Transition Area and Alteration of Control Area

On April 6, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 5455) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would designate a transition area and alter Control 1419 in the vicinity of Newport, Oreg.

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 71 of the Federal Aviation Regulations is amended, effective 0001, e.s.t., August 1, 1966, as hereinafter set forth.

1. In § 71.163 (31 F.R. 2050) Control 1419 is amended to read:

CONTROL 1419

That airspace extending upward from 2,000 feet MSL within lines 5 miles each side of the Newport, Oreg., VORTAC 237° radial, including the additional airspace between lines beginning adjacent to the VORTAC and diverging at angles of 5° from the parallel lines, extending from the VORTAC to the E boundary of the Oakland Oceanic control area, excluding the portion within the Newport, Oreg., transition area.

2. In § 71.181 (31 F.R. 2149) the Newport, Oreg., transition area is added as follows:

NEWPORT, OREG.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Newport Municipal Airport (latitude 44°34'45" N., longitude 124°03'30" W.); within 2 miles each side of the Newport VORTAC 005° radial, extending from the 5-mile radius area to 10 miles N of the VORTAC; within 2 miles each side of the Newport VORTAC 044° radial, extending from the 5-mile radius area to 13 miles NE of the VORTAC; and within 2 miles each side of the Newport VORTAC 184° radial, extending from the 5-mile radius area to 8 miles S of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8 miles W and 8 miles E of the Newport VORTAC 005° and 184° radials, extending from 12 miles N to 12 miles S of the VORTAC, and within lines 5 miles each side of the Newport VORTAC 237° radial including the additional airspace between lines beginning adjacent to the VORTAC and diverging at angles of 5° from the parallel lines, extending from the VORTAC to a line extending through latitude 44°35'00" N., longitude 124°17'30" W. and latitude 44°22'00" N., longitude 124°13'25" W.

(Secs. 307(a), 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; E.O. 10854 (24 F.R. 9565))

Issued in Washington, D.C., on June 24, 1966.

W. R. ANDREWS,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 66-7255; Filed, July 1, 1966; 8:45 a.m.]

[Airspace Docket No. 66-WE-28]

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

Revocation of Transition Area and Alteration of Transition Area

On May 5, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 6717) stating that the Federal Aviation Agency proposed to redesignate the Phoenix, Ariz., 700-foot transition area and revoke the Luke AFB transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. The one comment received was favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., September 15, 1966, as hereinafter set forth:

In § 71.181 (31 F.R. 2216) Luke AFB, Ariz., transition area is cancelled.

In § 71.181 (31 F.R. 2239) Phoenix Ariz., transition area is redesignated as follows:

PHOENIX, ARIZ.

That airspace extending upward from 700 feet above the surface, bounded by a line beginning at:

Latitude 33°40'00" N., longitude 112°29'-00" W., thence to latitude 33°40'00" N., longitude 112°15'00" W., thence to latitude 33°23'00" N., longitude 111°30'00" W., thence to latitude 33°14'00" N., longitude 111°30'-00" W., thence to latitude 33°10'00" N., longitude 111°36'00" W., thence to latitude 33°21'00" N., longitude 112°15'00" W., thence to latitude 33°21'00" N., longitude 112°30'-00" W., thence to latitude 33°22'30" N., longitude 112°30'00" W., thence to latitude 33°22'30" N., longitude 112°41'30" W., thence to latitude 33°31'30" N., longitude 112°41'-30" W., thence to latitude 33°31'30" N., longitude 112°29'00" W., thence to point of beginning."

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

Issued in Los Angeles, Calif., on June 24, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-7256; Filed, July 1, 1966; 8:45 a.m.]

[Airspace Docket No. 66-WE-30]

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

Designation of Transition Area

On May 7, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 6838) stating that the Federal Aviation Agency proposed to designate a transition area in the Mullan Pass, Idaho, area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. The one comment received was favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001, e.s.t., September 15, 1966, as hereinafter set forth:

In § 71.181 (31 F.R. 2149) the following transition area is added:

MULLAN PASS, IDAHO

That airspace extending upward from 8,500 feet MSL within 6 miles N and 9 miles S of the Mullan Pass VORTAC 095° and 275° radials, extending from 8 miles E to 15 miles W of the VORTAC.

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

Issued in Los Angeles, Calif., on June 24, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-7257; Filed, July 1, 1966; 8:45 a.m.]

[Airspace Docket No. 66-SW-35]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment is to alter the time of designation of Restricted Area R-3802 at Rabbit Island, La., and to establish the area as a joint use restricted area.

The U.S. Navy has advised the Federal Aviation Agency that the time of use of Restricted Area R-3802 may be reduced. Further, the Navy recommends that the area be designated for joint usage.

Since this amendment reduces the burden on the public, notice and public procedure hereon are unnecessary and the amendment may be made effective on less than 30 days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 73.38 (31 F.R. 2314) Restricted Area R-3802 is amended by:

1. Deleting from the text, "*Time of designation.* Sunrise to Sunset" and substituting therefor "*Time of designation.* 0800 C.S.T. to sunset Saturday and Sunday; other times as activated by NOTAM issued by the using agency 24 hours in advance."

2. Adding to the text, between Time of designation and Using Agency, "*Controlling agency.* Federal Aviation Agency, New Orleans, La., Flight Service Station."

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

Issued in Washington, D.C., on June 27, 1966.

ARCHIE W. LEAGUE,
Director, Air Traffic Service.

[F.R. Doc. 66-7258; Filed, July 1, 1966; 8:45 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 1]

PART 728—WHEAT

Subpart—Regulations Pertaining to Farm Acreage Allotments, Yields, Wheat Diversion and Wheat Certificate Programs for the Crop Years 1966 Through 1969

DETERMINATION OF PRELIMINARY ALLOTMENTS FOR OLD FARMS FOR 1967 AND SUBSEQUENT CROPS

Basis and purpose. The purpose of this amendment is to clarify the basis and purpose of the provisions of the regulations with respect to the effect of overplanting allotments and to provide for the adjustment to be made for a tract which was part of an overplanted farm in 1964 and has been divided from such farm in such a manner that it receives zero history acreage for 1964. The details of the basis and purpose of these provisions are set forth in the amendment to § 728.309.

Since wheat producers are now preparing to plant their 1967 crops of wheat in the major wheat-producing areas, it is necessary that they be notified of their farm wheat acreage allotments as soon as possible. Accordingly, it is found that compliance with the notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest, and these amendments shall become effective upon filing with the Director, Office of the Federal Register.

1. Section 728.309 is amended by deleting the last two sentences of the first paragraph of subsection (b), beginning with the words, "The terms and conditions" and ending with the words, "program is in effect.", and inserting the following in lieu thereof:

Likewise, a tract that was part of an overplanted farm in 1964, but has subsequently been divided from the farm in such a manner that it receives zero history acreage for 1964, shall have the adjustment applied to the 1967 preliminary allotment. The reduction adjustment shall be 7 percent of the 1957 preliminary allotment establishd for the farm or the tract; such an adjustment is comparable to the average reduction obtained under prior programs by reducing history acreage to the allotment for the overplanted year and replacing 20 percent of the wheat base credit with 20 percent of the history acreage credit in establishing the wheat base for the second year subsequent to overplanting. Under both methods, future allotments for the affected farms are approximately 7 percent less than the allotment that would have been computed had no overplanting occurred. These reductions are made by reason of the overplanting provision of 7 U.S.C. 1334(c). In the case of odd-even farms, the maintenance of this reduction is implemented through use of the special odd-even rotation factors. The application of this amendment results in more uniform treatment of all overplanted 1964 wheat farms and gives effect to the fact that the several tracts were one farm in 1964. The terms and conditions for accepting applications and approving allotments for new wheat farms are not changed. In accordance with Public Law 89-321, no reduction will be made in a future farm allotment for overplanting an allotment in any of the years 1966 through 1969, inclusive, in which a voluntary diversion or certificate program is in effect.

2. Section 728.315 is amended by adding an additional sentence at the end of paragraph (b)(2) to read as follows:

§ 728.315 Determination of preliminary allotments for old farms for 1967 and subsequent crops.

* * * * *

(b) * * *

(2) * * * In the case of a farm that was overplanted in 1964 which is divided in a subsequent year in such a way that one or more of the divided tracts receives a zero history acreage for 1964, and a preliminary allotment for 1967 is established for such tract or tracts, it shall be reduced by 7 percent.

* * * * *

(Secs. 301, 334, 375, 52 Stat. 38, as amended, 53, as amended by 79 Stat. 1200, 65, as amended; 7 U.S.C. 1301, 1334, 1375)

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

Signed at Washington, D.C., on June 29, 1966.

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

[F.R. Doc. 66-7302; Filed, July 1, 1966; 8:48 a.m.]

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 8]

PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Miscellaneous Amendments

Basis and purpose. The following amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (secs. 379a to 379j, 52 Stat. 31, as amended; 7 U.S.C. 1379a to 1379j), to provide miscellaneous changes in the Processor Wheat Marketing Certificate Regulations. The amendment contains substantially the same provisions as included in a notice of proposed rule making published in the FEDERAL REGISTER pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), on June 25, 1966, in which the public was invited to provide its views and suggestions within a 5-day period.

(1) The amendment defines "Shrinkage."

(2) It provides that a plant producing cereal products may be considered a separate plant.

(3) It provides that the cost of certificates for the marketing year beginning July 1, 1966, shall be 75 cents per bushel.

(4) The amendment provides that interest charges will not apply to the extent delay in acquiring and surrendering certificates results from the processor relying in good faith on advice from an authorized official of the Department.

(5) It changes the conversion factor for flour (including clears), which is to be used in determining certificate liability for processors reporting on the conversion factor basis to reflect the average experience of processors reporting on this basis as of July 1, 1965.

(6) The amendment changes the language of § 777.19(e) to provide that the refund rate shall continue to be based on the conversion factor for flour determined from the experience of all processors on a national basis.

(7) It clarifies requirements as to information to be included in processing reports by processors acquiring and surrendering certificates in the absence of an undertaking.

(8) It clarifies existing record requirements for flour second clears produced and blended by a processor. Since this is not in the nature of a change, notice was not provided in the notice of proposed rule making.

(9) Appendix V has been added to provide instructions for preparation of Form CCC–161–1, Industrial Users Production Report and Claim for Refund Form, which is to be completed by users who produce non-food products only.

(10) Other miscellaneous changes are also made.

Since these provisions must be acted on immediately, or are needed immediately in the administration of the regulations, it is hereby found and determined that compliance with the 30-day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest, and that this amendment shall be effective on the effective date provided below.

The Processor Wheat Marketing Certificate Regulations are amended as follows:

Section 777.3(g) is changed by adding subparagraph (5), effective with the processing report period beginning July 1, 1964, to read as follows:

§ 777.3 Definitions.

* * * * *

(g) * * *

(5) any such unit in which cereal products are produced may be considered a separate plant.

Section 777.3 is amended by adding new paragraph (x) to read as follows:

(x) "Shrinkage" as used herein, means that loss in weight resulting from normal handling of wheat, including the loss in moisture content, which occurs after the wheat is weighed and unloaded into the plant (including the servicing elevator(s)) and until it is removed for milling (i.e. prior to cleaning and tempering) or other disposition. Shrinkage shall not include the loss of weight resulting from artificial drying, screening, or cleaning, nor shall it include any loss of weight to the extent it is offset by any residue which is recovered in the form of sweepings, bin cleanout, or in similar operations.

§ 777.4 [Amended]

Section 777.4(a) is amended to change the last sentence to read: "The cost of domestic certificates for the marketing years beginning July 1, 1965, and July 1, 1966, shall be 75 cents per bushel."

§ 777.5 [Amended]

Section 777.5(a) is amended to change the second sentence to read as follows: "Any such person who begins such processing operations subsequent to May 20, 1964, and who is not registered, shall register not later than the date he commences operations or such later date as may be approved in writing by the Director for good cause shown."

Section 777.11 is amended by adding a new paragraph (f) to read as follows:

§ 777.11 Time and manner of acquiring and surrendering certificates.

* * * * *

(f) *Inapplicability of interest.* Interest charges under this section will not apply to the extent it is established to the satisfaction of the Administrator, ASCS, that a delay in the acquisition and surrender of certificates resulted from reliance in good faith upon action or advice of an authorized official of the Department. Any processor who wishes to apply for relief under this section shall submit a request in writing supported by documentary evidence necessary to substantiate the basis on which the application is made.

§ 777.13 [Amended]

Section 777.13 is amended by adding the title, *General*, to paragraph (a) and by adding a new paragraph (b) as follows:

(b) *Additional reports in absence of an undertaking.* Food processors purchasing certificates in accordance with § 777.11(c) shall supplement each Form CCC–160 with a statement showing: (1) The quantity (in cwt.) and name of food products processed in the reporting period covered by the form, (2) the quantity (in cwt.) and name of food products sold and removed for sale or consumption during such period, (3) the reporting period in which the food product(s) specified in Item (2) were processed, and (4) the wheat equivalent in bushels of such food product(s) calculated by using the actual conversion factor experienced in the reporting period in which processed (bushels of wheat processed into food products divided by cwt. of food products produced). The processor's Form CCC–160 for the first period not covered by an undertaking shall also include a statement showing the quantity of food products remaining in inventory from the previous reporting period(s) and the wheat equivalent of such product(s). For the purpose of determining the report period in which a food product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis. The face value of the certificates and the interest charges shall be shown separately on the report.

§ 777.14 [Amended]

Section 777.14(c) is amended by changing the conversion factor for the product described below as follows:

A *Food product*	*B* *Bushels of wheat equivalent per 100 pounds of product (conversion factor)*
Flour (including clears) derived from conventional milling practices which are generally accepted in the milling industry in the United States as representing a 72 percent extraction operation	2.300

Section 777.14 is amended by adding a new paragraph (f) as follows:

(f) *Additional reports in absence of an undertaking.* Food processors who purchase certificates in accordance with section 777.11(c) shall supplement each Form CCC–159 with a statement showing (1) the quantity (in cwt.) and name of food products sold and removed for sale or consumption during the period covered by the form, (2) the quantity of wheat used in the production of such food products, (3) the conversion factor(s) used in making such determination, and (4) the reporting period in which the food products were processed. The processor's Form CCC–159 for the first period not covered by an undertaking shall include a statement, showing the product, and the wheat equivalent in bushels of the products in inventory at the beginning of the period. For the purpose of determining the report period in which

a product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis. The face value of the certificates and the interest charges shall be shown separately on the report.

§ 777.18 [Amended]

Section 777.18(c) is amended by inserting a new second sentence to read as follows: "In the case of flour second clears produced and blended in the same plant, it is necesary that (1) all the flour second clears be sampled and analyzed prior to the blending and issuance of the Forms CCC–165 and (2) the records reflect the quantity of each type of flour second clears used in the blend."

Section 777.19 (c) and (e) are amended to read as follows:

§ 777.19 Industrial users of flour second clears.

* * * * *

(c) *Reports and claims for refund.* The industrial user shall submit claims for refund to the Commodity Office on Form CCC–161, Industrial Users Production Report and Claim for Refund, except that industrial users producing nonfood products only from flour second clears and nonqualifying clears may submit claims for any reporting period described in paragraph (d) of this section in which such production occurred on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only). These forms shall be used by the industrial user to report all products manufactured from flour second clears and nonqualifying clears in a plant during a reporting period. Production reports on Form CCC–161 or Form CCC–161–1 must be submitted for each reporting period after the period covered by the first claim for refund even though the period may not involve a claim for refund. Payment will not be made of any claim until the Commodity Office has received from the industrial user Forms CCC–161 or Forms CCC–161–1 covering all prior reporting periods for which the user must file a report. Where reference is made to Form CCC–161 in this section (except in paragraph (h)(3)), it shall also be deemed to refer to Form CCC–161–1.

* * * * *

(e) *Refund rate.* The refund rate shall be determined on the basis of the conversion factor 2.283 multiplied by the applicable certificate cost rounded to the nearest cent; i.e., $1.71 per cwt. for the marketing years beginning July 1, 1965, and July 1, 1966.

Appendix II (16) is amended to read as follows:

(16) Enter in Item 7D the face value of wheat marketing certificates (domestic) required. Obtain the amount by multiplying the quantity shown in Item 6 by the applicable cost of certificates as specified in § 777.4(a).

Appendix III (16) is amended to read as follows:

(16) Enter in Item 9D the face value of wheat marketing certificates (domestic) required. Obtain the amount by multiplying the quantity shown in Item 7C by the applicable cost of certificates as specified in § 777.4(a).

Appendix IV is amended by changing paragraph (5) to read:

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4K by the applicable refund rate as specified in § 777.19(e).

Appendix V is added to read as follows:

APPENDIX V—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

INSTRUCTIONS FOR PREPARATION OF INDUSTRIAL USERS PRODUCTION REPORT AND CLAIM FOR REFUND FORMS (FOR USERS WHO PRODUCE NONFOOD PRODUCTS ONLY)

Industrial users manufacturing nonfood products only, who wish to claim refund of the cost of domestic certificates purchased by processors to cover wheat used in processing flour second clears used in a product not for human consumption may submit such claims on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only), to the Kansas City Commodity Office as provided in § 777.19. A copy of each Form CCC–161–1, shall be retained by the industrial user. Instructions for the completion of Form CCC–161–1 are as follows:

(The numbers and letters listed below correspond with the numbers and letters on the form.)

(1) *Heading.*

(A) Enter name and mailing address.

(B) Enter the industrial user number assigned on Registration Form CCC–149.

(C) Enter the marketing year. Prepare separate Forms CCC–161–1 for each marketing year. July 1 begins the marketing year. The marketing year shown on Form CCC–165 and/or CCC–165–1 shall determine the marketing year under which the flour second clears are to be reported.

(D) Enter the reporting period dates. (See 777.19(d).)

(2) *Inventory of flour second clears.* Enter in hundredweights.

(A) Enter the quantity on hand at the end of the preceding reporting period. Bring forward from Item 2F of the preceding Form CCC–161–1.

(B) Enter the quantity received at the plant during the reporting period covered by the report. Such quantity must not be in excess of the quantity shown on Forms CCC–165 or CCC–165–1. If during one reporting period there are received flour second clears identifiable to more than one marketing year, separate Forms CCC–161–1 for each marketing year must be prepared.

(C) Enter the total of Items 2A and 2B.

(D) Enter the quantity of shipments which did not enter production.

(E) Enter the quantity which was a casualty loss and did not enter production. (See § 777.16.)

(F) Enter the quantity on hand at the end of the reporting period.

(G) Enter the total of Items 2D through 2F.

(H) Enter the difference between Items 2C and 2G.

(3) *Kind of clears used.* Enter in hundredweight the kind of clears used during the reporting period. If more than one Form CCC–161–1 is submitted because of the use (during the same reporting period) of clears identified to more than one marketing year, prorate the quantity of each kind of clears used between the marketing years according to the percentage relationship between the quantities shown in Item 2H of the report for each separate marketing year report. Enter the prorated quantities.

(A) Enter the quantity of flour second clears used which were produced from (1) hard wheat, (2) soft wheat, (3) Durum or (4) if blended clears are received and used, enter the quantity used. (5) Enter the total of (1), (2), (3), and (4). The quantities shown in (1), (2), (3), and (4) must be on the basis of information as to type of wheat and/or clears shown on the Forms CCC–165 and CCC–165–1. The total must agree with the quantity shown in Item 2H.

(B) Enter the quantity of (1) imported clears and (2) other nonqualifying clears.

(4) *Products manufactured from clears.*

(A) List the products not for human consumption produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the flour second clears used to produce the products not for human consumption.

(B) Enter the total of the weights shown under Item 4A.

(C) Enter the quantity shown in Item 2H.

(D) Enter the quantity shown in Item 2E.

(E) Enter total of Items 4C and 4D.

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4E by the refund rate as specified in § 777.19(e).

(6) *Certification.* The certificate shall be dated and executed by an authorized official of the industrial user.

Effective date. The provisions of this amendment shall be effective as of July 1, 1966.

Signed in Washington, D.C., on June 30, 1966.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 66–7321; Filed, July 1, 1966; 8:50 a.m.]

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

[Valencia Orange Reg. 168]

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

Limitation of Handling

§ 908.468 Valencia Orange Regulation 168.

(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, en-

gage 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 June 30, 1966.

(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., July 3, 1966, and ending at 12:01 a.m., P.s.t., July 10, 1966, are hereby fixed as follows:

(i) District 1: 250,000 cartons;

(ii) District 2: 250,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "handler," "District 1," "District 2," "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: July 1, 1966.

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

[F.R. Doc. 66-7372; Filed, July 1966; 11:39 a.m.]

[Lemon Reg. 221]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.521 Lemon Regulation 221.

(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 June 28, 1966.

(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., July 3, 1966, and ending at 12:01 a.m., P.s.t., July 10, 1966, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 325,500 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: June 30, 1966.

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

[F.R. Doc. 66-7335; Filed, July 1, 1966; 8:50 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 74]

PART 1074—MILK IN SOUTHWEST KANSAS MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Southwest Kansas marketing area (7 CFR Part 1074), it is hereby found and determined that:

(a) The following provisions of the order no longer tend to effectuate the declared policy of the Act for the month of July 1966: § 1074.51(a)(3) (ii) and (iii).

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension action was requested by a cooperative association and a handler with own production representing all producers and by other major handlers regulated by the order. This action will have the effect of decreasing the Class I milk price for July 1966 by 11 cents per hundredweight. This will maintain prices in a more nearly normal relationship between this market and the nearby and larger Wichita, Kans., market by establishing the difference in Class I milk prices between these two markets at 18 cents per hundredweight instead of 29 cents. The intermarket relationship will be nearly the same as the 17 cents established for June 1966 by suspension action (31 F.R. 8000). The normal difference is not more than 10 cents per hundredweight. Wichita handlers distribute approximately one-third of the fluid milk products in this marketing area. It is therefore necessary that Class I milk prices between the two markets be in reasonable alignment.

Therefore, good cause exists for making this order effective July 1, 1966.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of July 1966.

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

Effective date. July 1, 1966.

Signed at Washington, D.C., on June 28, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 66-7278; Filed, July 1, 1966; 8:47 a.m.]

[Milk Order 126]

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

Order Amending Order

§ 1126.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the North Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby 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;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) 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, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to:

(a) Receipts from producers (including such handler's own production);

(b) Receipts from cooperative associations in their capacity as a handler pursuant to § 1126.12 (c) and (d);

(c) Other source milk allocated to Class I pursuant to § 1126.46(a) (3) and (7) and the corresponding steps of § 1126.46(b); and

(d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than July 1, 1966. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued April 28, 1966, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued June 13, 1966. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1966, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the North Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

1. The provision formerly contained in § 1126.7 is now contained in a new § 1126.19, and § 1126.7 is deleted. Section 1126.19 reads as follows:

§ 1126.19 Route.

"Route" means any delivery (including any delivery by a vendor or disposition at a plant store) of milk, skim milk, buttermilk, flavored milk, flavored milk drinks or cream other than a delivery in bulk form to a milk processing plant.

2. A new § 1126.7 is added and reads as follows:

§ 1126.7 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed and/or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit on routes shall not be a plant under this definition.

3. Section 1126.8 is revised to read as follows:

§ 1126.8 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted State or municipal health authority, or acceptable to an agency of the State or Federal Government for the disposition of Grade A fluid milk products in the marketing area, at which milk products are received, processed and/or packaged, and from which fluid milk products are disposed of on routes in the marketing area.

4. In § 1126.9, the introductory text is revised to read as follows:

§ 1126.9 Supply plant.

"Supply plant" means any plant approved by the appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which milk is moved to a pool distributing plant as follows:

* * * * *

5. Section 1126.10 is revised to read as follows:

§ 1126.10 Pool plant.

"Pool plant" means:

(a) Any distributing plant, except a producer-handler plant or an other order plant, from which during the month:

(1) The disposition of fluid milk products on routes within the marketing area is 10 percent or more of the receipts of Grade A milk at such plant; and

(2) The total disposition of fluid milk products on routes is 50 percent or more of the receipts of Grade A milk at such plant, except that if two or more distributing plants operated by the same handler each meet the performance requirement of subparagraph (1) of this paragraph and total disposition of fluid milk products on routes of such plants is 50 percent or more of receipts of Grade A milk at such plants, each such plant shall be deemed to have met the requirement of this subparagraph;

(b) Any supply plant; or

(c) Any plant operated by a cooperative association which has been approved by any duly constituted state or municipal health authority and at which milk is received from dairy farmers holding permits or authorization from such health authority, and at least 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from the plant of the cooperative association.

6. In § 1126.11, a new paragraph (d) is added and reads as follows:

§ 1126.11 Nonpool plant.

* * * * *

(d) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes (other than to pool plants) in the marketing area during the month.

§ 1126.12 [Amended]

7. In § 1126.12, the reference "the proviso in § 1126.53" in each of the paragraphs (c) and (d) is revised to read "§ 1126.53(b)" and a new paragraph (e) is added to read as follows:

(e) Any person in his capacity as the operator of a partially regulated distributing plant.

8. Section 1126.13 is revised to read as follows:

§ 1126.13 Producer.

(a) "Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority, which milk is:

(1) Received at a pool plant; or

(2) Diverted by a handler for his account from a pool plant to a nonpool plant on any day during the months of January through July and on not more than half of the days of delivery during any other month. Such diverted milk shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which it was diverted.

(b) "Producer" shall not include:

(1) Any person during periods of temporary degrading by any duly constituted State or municipal health authority if such health authority notifies the operator of the pool plant or the market administrator in writing of the effective date or dates of such action and subsequent reapproval;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and the handler under the other order diverting such milk and the operator of the pool plant each have requested Class II classification of such milk in the reports of receipts and utilization filed with their respective market administrators; and

(3) Any person with respect to milk produced by him which is diverted to an other order plant if such person is designated as a producer under the other order with respect to such milk.

9. In § 1126.30, a new paragraph (h) is added to read as follows:

§ 1126.30 Reports of receipts and utilization.

* * * * *

(h) Each handler operating a partially regulated distributing plant shall report as required in this section except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area.

10. In § 1126.31, the introductory text is revised to read as follows:

§ 1126.31 Payroll reports.

On or before the 20th day of each month, each handler, except a handler making payments pursuant to § 1126.62 (b), shall submit to the market administrator his producer payroll (or, in the case of a handler making payments pursuant to § 1126.62(a), his payroll for dairy farmers delivering Grade A milk) for deliveries made in the preceding month which shall show:

* * * * *

11. Section 1126.41(a)(1) is revised to read as follows:

§ 1126.41 Classes of utilization.

* * * * *

(a) * * *

(1) Disposed of in the form of milk, skim milk, buttermilk, flavored milk drinks, cream (except sterilized cream and sterilized cream products disposed of in hermetically sealed metal or glass containers and cultured sour cream), and any mixture (except eggnog and bulk ice cream and frozen dairy product mixes) of cream and milk or skim milk: *Provided*, That when any fluid milk product is fortified with nonfat milk solids the amount of skim milk to be classified as Class I shall be only that amount equal to the weight of skim milk in an equal volume of an unfortified product of the same nature and butterfat content;

* * * * *

12. In § 1126.44(g), the introductory text and subparagraphs (2), (3), and (5) are revised to read as follows:

§ 1126.44 Transfers.

* * * * *

(g) As follows, if transferred, or diverted if such milk is not producer milk under the other order, 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:

* * * * *

(2) If transferred or diverted 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 transferor or diverting handler and the operator of the other order plant so request in their reports of receipts and utilization filed with their respective market administrators, transfers and diversions in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under the other order) available for such assignment pursuant to the allocation provisions of the other order;

* * * * *

(5) For purposes of this paragraph, if the order to which the milk is transferred or diverted 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

* * * * *

13. A new § 1126.62 is added and reads as follows:

§ 1126.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1126.30 and 1126.31 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 § 1126.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the 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 § 1126.70(e) and a credit in the amount specified in § 1126.93(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant

to §§ 1126.30 and 1126.31 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 § 1126.9, with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class II price).

14. Section 1126.92 is revised to read as follows:

§ 1126.92 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1126.62, 1126.93, and 1126.95, and out of which he shall make all payments to handlers pursuant to §§ 1126.94 and 1126.95.

15. Section 1126.97 is revised to read as follows:

§ 1126.97 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 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts from producers (including such handler's own production);

(b) Receipts from cooperative associations in their capacity as a handler pursuant to § 1126.12 (c) and (d);

(c) Other source milk allocated to Class I pursuant to § 1126.46(a) (3) and (7) and the corresponding steps of § 1126.46(b); and

(d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

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

Effective date. July 1, 1966.

Signed at Washington, D.C., on June 28, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 66-7279; Filed, July 1, 1966; 8:47 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1966 Crop Rice Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1966 Crop Rice Loan and Purchase Program

The General Regulations Governing Price Support for the 1964 and Subsequent Crops (Revision 1) (31 F.R. 5941) and the 1966 and Subsequent Crops Rice Supplement (31 F.R. 8346) which contain regulations of a general nature with respect to price support operations are further supplemented for the 1966 crop of rice as follows:

Sec.
1421.2775 Purpose.
1421.2776 Availability.
1421.2777 Maturity of loans.
1421.2778 Support rates.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 62 Stat. 1051, as amended, 1054, sec. 302, 72 Stat. 988; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.2775 Purpose.

This subpart contains additional program provisions which, together with the applicable provisions of the regulations specified in § 1421.2760 of the 1966 and Subsequent Crop Rice Supplement, and any amendments thereto, apply to loans and purchases for the 1966 crop rice.

§ 1421.2776 Availability.

(a) *Loans.* Producers must request a loan on 1966 crop eligible rice on or before March 31, 1967.

(b) *Purchases.* Producers desiring to offer eligible rice not under loan for purchase must notify the ASCS county office on or before April 30, 1967, of their intent to sell.

§ 1421.2777 Maturity of loans.

Unless demand is made earlier loans on rice will mature on April 30, 1967.

§ 1421.2778 Support rates.

The loan rate for rice placed under a loan other than a loan on rice stored commingled in an approved warehouse, shall be the applicable basic support rate specified in paragraph (a) of this section adjusted as provided in paragraphs (c) and (d) of this section. The support rate for loans on rice stored commingled in an approved warehouse and for settlement of all loans and purchases shall be the applicable basic support rate specified in paragraph (a) of this section, adjusted in accordance with the provisions of this section and §§ 1421.2770 and 1421.72 and adjusted by such other discounts not specified in this subpart as may be established by CCC to reflect the value of the rice acquired by CCC.

(a) *Basic rates.* The basic support rate per 100 pounds of rice shall be computed as follows: Multiply the yield (in pounds per hundredweight) of head rice by the applicable value factor for head rice (as shown in the table below according to class or variety) and round the result to the nearest hundredth. Similarly, multiply the difference between the total yield and the head rice yield (in pounds per hundredweight) by the applicable value factor for broken rice and round the result to the nearest hundredth. Add the results (as rounded) of these two computations to obtain the basic loan or purchase rate per 100 pounds of rice and express such rate in dollars and cents.

VALUE FACTORS FOR HEAD AND BROKEN RICE [1]

Group	Rough rice class or variety	Head rice	Broken rice
		Cents per pound	*Cents per pound*
I	Patna (except the varieties Belle Patna, and Century (Patna) and Rexora (except the variety Rexark).	8.92	3.80
II	Bluebelle, Blue Bonnet, Belle Patna, Vegold, Nira, and Rexark.	8.32	3.80
III	Century Patna, Toro, Fortuna, Rex Nira, and Edith.	7.32	3.80
IV	Blue Rose (including the varieties Improved Blue Rose, Greater Blue Rose, Kamrose, and Arkrose), Calrose, Gulfrose, Northrose, Lacrosse, Magnolia, Nato, Nova, Zenith (including the varieties Gold Zenith and Golden Rose), Prelude, Lady Wright, and Saturn.	6.82	3.80
V	Pearl, Early Prolific, Calady and other varieties.	6.77	3.80

[1] These value factors may be changed. Such changes, if any, will be made by an amendment to this section issued shortly after Aug. 1, 1966.

(b) *Premium.* The basic support rate determined under paragraph (a) of this section shall be adjusted by the following premium:

Grade U.S. No. 1---- 10 cents per 100 pounds.

(c) *Discounts.* The basic support rate determined under paragraph (a) of this section shall be adjusted by the following discount:

	Cents per 100 pounds
Grade U.S. No. 3	15
Grade U.S. No. 4	30
Grade U.S. No. 5	50

(d) *Location differentials.* For rice produced in the areas specified below discounts for location (to adjust for transportation costs of moving the rice to an area where competitive milling facilities are available) shall be applied to the basic support rate determined under paragraph (a) of this section and shall be in addition to any adjustment under paragraph (b) or (c) of this section: *Provided, however,* That if such rice is transported and stored in a rice producing area where no location differential is applicable, no discount for location shall be applied.

DIFFERENTIAL TABLE

Area	*Discount per 100 pounds*
State of Florida	$0.96
States of North Carolina and South Carolina	.92
Imperial County, Calif., and adjacent counties in Arizona and California	1.02
Counties of Holt, Lewis, Lincoln, Marion, Pike, and St. Charles in Missouri and Adams in Illinois	.62
Counties of Lafayette, Little River, and Miller in Arkansas; Bowie in Texas; McCurtain in Oklahoma and Bossier Parish in Louisiana	.255

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 29, 1966.

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

[F.R. Doc. 66-7303; Filed, July 1, 1966; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 967]

CELERY GROWN IN FLORIDA

Marketable Quantity for 1966–67 Season; Uniform Percentage; Handling Limitation

Notice is hereby given that the Secretary of Agriculture is considering the approval of a limitation of shipments regulation, hereinafter set forth, which was recommended by the Florida Celery Committee, established pursuant to Marketing Agreement No. 149 and Order No. 967 (7 CFR 967) regulating the handling of celery grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same, in quadruplicate, with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposal is as follows:

§ 967.302 Marketable quantity for 1966–67 season; uniform percentage; and limitation on handling.

(a) The Marketable Quantity for the 1966–67 season is established, pursuant to § 967.36(a), as 7,887,375 crates.

(b) As provided in § 967.38(a), the Uniform Percentage for the 1966–67 season is determined as 84.128 percent.

(c) During the season August 1, 1966, through July 31, 1967, no handler may handle, as provided in § 967.36(b)(1), any harvested celery unless it is within the Marketable Allotment for the producer of such celery.

(d) Terms used herein shall have the same meaning as when used in the marketing agreement and order.

Dated: June 28, 1966.

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

[F.R. Doc. 66–7280; Filed, July 1, 1966; 8:47 a.m.]

[7 CFR Part 991]

[Docket No. AO–357]

HOPS OF DOMESTIC PRODUCTION

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

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Yakima, Wash., March 1 through March 8, 1966, after notice thereof was published in the FEDERAL REGISTER (31 F.R. 2479) on February 8, 1966.

On the basis of the evidence adduced at the hearing and the record thereof, a recommended decision in this proceeding, including a proposed marketing agreement and order (hereinafter collectively referred to as the "marketing order") was filed on May 18, 1966, with the Hearing Clerk, U.S. Department of Agriculture. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 66–5597; 31 F.R. 7397) on May 21, 1966. The time for filing exceptions to the recommended decision, with the Hearing Clerk, expired on June 3, 1966.

Material issues, findings and conclusions, rulings and general findings. The material issues, findings and conclusions, rulings, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 66–5597; 31 F.R. 7397) are hereby approved and adopted as the material issues findings and conclusions, rulings, and the general findings of this decision as if set forth in full herein, except as they are modified by the rulings on the exceptions hereinafter set forth.

Rulings on exceptions. Exceptions to the recommended decision were filed, within the prescribed time, by George C. Twohy for John I. Haas, Inc., by George H. Gannon, d.b.a. Yakima Chief Ranch, by Melville Ehrlich for L. Oppenheimer & Co., Inc., Keller Hops Co., Inc., J. Sonnenschein Hop Co., Inc., John Barth, Inc., Hans Hinrichs Co., Inc., Martin Weilheimer, Inc., F. Bing, Inc., by Ted Roy for Hops Extract Corp. of America, by Allan A. Rubin and John J. Latella for the United States Brewers Association, Inc., by John S. Moore for the Free Enterprise Hop Committee (a group of hop growers), by Alan A. McDonald for S. S. Steiner, Inc., by Lester W. Roy on his own behalf, by Tom Carpenter, Jr., on his own behalf, and by V. J. Beaulaurier and J. Hugh Aaron, for the proponent growers. These exceptions have been considered carefully and fully, in connection with the evidence in the record and the proposed findings and conclusions of the recommended decision, in arriving at the findings and conclusions set forth herein. To any extent that the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto, such exceptions are denied on the basis of the findings and conclusions relating to the issues to which the exceptions refer.

The exceptions relative to findings on material issue 2 are largely a repetition of matters presented at the public hearing, in proposed findings and conclusions filed subsequent to said hearing, and which were duly considered and denied in the recommended decision. Conclusions have been correctly reached that returns to producers are below parity, that a surplus of production is causing an increased annual carryout of hops which threatens hop prices and endangers producer investment in production and processing facilities and that this could be corrected by the proposed method of limiting the quantity of hops which may be marketed and alloting such quantity among producers. The proposed method does not constitute acreage control as no production ceiling nor acreage allotments will be placed on any producer and no machinery is proposed to enforce such ceiling or allotment. On the contrary, provision is made to assist those with excess production by pooling it for possible sale to the benefit of the producers thereof. Accordingly, the exceptions to material issue 2 are denied.

Exceptions were taken to the reserve pool provisions, to the authority of the committee and Secretary, to the right of access to handlers premises, to levying assessments on handlers as being illegal and without due process of law. Also, exception was taken to exclusion from personal liability of committee members, employees, or agents. However, these provisions are consistent with authorizations in the Act and similar to those employed in other Federal orders and their application are but activities essential to sound program administration. The instant proceeding is one of due process. Accordingly, the exceptions are denied.

Exceptions were taken that the marketing order would deny entry into hop growing to a new producer, would restrict expansion of acreage, and would create a monetary value for producer allotments. These exceptions are a repetition of matters presented at the public hearing, in proposed findings and conclusions filed subsequent to said hearing, and which were duly considered and denied in the recommended decision. The evidence of record is that consideration has been given to these matters and the program is designed to give the full-

est possible flexibility to producers consistent with program objectives. Hence, these exceptions are denied.

Exceptions, like those presented at the public hearing and in proposed findings and conclusions submitted subsequent to the hearing, and which were duly considered and denied in the recommended decision, were taken to the cooperative producers representation on the Hop Administrative Committee, to the failure to include dealers or brewers on the committee, to the likelihood that an all-producer membership committee could adequately discharge its responsibilities, to confining dealers to an advisory position by providing for a Hop Marketing Advisory Board, to limiting participation in the election of nominees to 1 district, and to the necessity for 9 concurring votes out of 13 and a 10-member quorum of the committee to effectuate any decisions. The exceptions that dealers and brewers could not serve on the committee is not entirely accurate because some dealers are also producers, as are some brewers, and, in their producer capacities, qualify for membership on the committee. Upon the basis of the record evidence, and in view of the nature of the program and the structure of the hop industry, as disclosed by the record, these exceptions are denied.

Four exceptors took the position that any increase in domestic hop prices would seriously curtail exportation of United States hops. Also, they contended that a marketing order would cause a reduction in the supply of hops causing foreign buyers to seek other sources of supply. As to the matter of prices, the record shows that exports during the years 1955–65 have ranged from 10.2 million pounds of hops in 1955 to 22.5 million pounds of hops in 1965. During this 10-year period, only in 1 year, 1960–61 did hop exports not increase over the preceding year. In the same 10-year period, the season average price to growers increased in 5 years and decreased in 5 years. An explanation of the upward trend is in the record in that U.S. hops have a high brewing value and have been lower in price than hops from other countries. Hence, the issue is more one of how much can U.S. hop prices increase before world buyers turn to other sources than it is one of any price increase curtailing exports. On the matter of the marketing order causing such a reduction in hop supplies as to cause a loss of exports, this is precluded both by the need to consider export demand in setting the salable percentage and the requirement that reserve pool hops shall be released to handlers when necessary to meet domestic or export trade demand. Moreover, the opportunity to contract in export is preserved by the order providing that no annual allotment for any year shall be less than 85 percent. Hence, the exception is denied.

One exceptor requested that all independent producer members on the Hop Administrative Committee for District 1 instead of only the at-large members, be voted upon by all independent producers in said district. However, to do so could deny to any one of the three subdistricts its right to be represented by a member of its own choosing. Accordingly, the request is denied.

One exceptor requested a modification of the definition of "extractor." The definition as contained in the recommended decision and marketing order defined any extractor as one primarily engaged in extracting from hops commercially important components and selling such extract. The exceptor pointed out that some "extractors" do extracting primarily on a custom basis and that they sell their service of extracting to a dealer, and the extract itself is never sold by them. Since extractors come within the "handler" definition be receiving or acquiring hops (irrespective of whether or not they sell the extract), it is not necessary to prescribe an additional requirement relating to the sale of extract by such persons. Accordingly, the third sentence of the second paragraph of material issue 3(c) is revised to read as follows: "An extractor should mean a person primarily engaged in extracting from hops their commercially important components." Also, an appropriate conforming change in § 991.22 of the marketing order is made to effect this conclusion. Hence, the request of the exceptor is granted.

Exceptions were taken to the provisions concerned with minimum quality standards and the failure to incorporate quality standards in the proposal. The evidence of record is that detailed standards have not been applied in the past—other than for leaf and stem content—and no U.S. standards have been promulgated by this Department. According to the record, producers, dealers, and brewers do not have a common appreciation of the various factors of quality and this should be resolved and a common approach established by rulemaking procedures. There is no doubt that the U.S. industry can, and should, market hops of high quality and acceptability, and the provisions of the marketing order provide a basis for meeting this objective. Accordingly, the exception is denied.

Exception was taken to § 991.36 in that the exceptor requested said section be clarified to state that committee recommendations of annual marketing policy be made known to the Secretary and producers no later than March 1, and with respect to the review prior to August 1, that any recommended increase be made known by August 10. This goes to the issue of the concluding sentence of § 991.36 which requires such to be submitted promptly. The intent being that the committee must make the submission promptly after a meeting and without regard to some later deadline date. Thus, if the committee should meet January 15, for example, notice of its adopted marketing policy should be given on that day or by the following day. In other words, as soon as practicable. In view of this, the exception is denied.

Exception was taken to an alleged failure to require that a mandatory joint meeting be held by the committee and the board prior to March 1 to consider proposed marketing policy recommendations. The recommended decision and marketing order on this matter clearly indicate that a joint meeting shall be held for this very purpose. Hence, the exception is denied.

Exception was taken to the first sentence of material issue 3(h) which states that producers begin to incur costs shortly after March 1 and hence, the marketing policy meeting should occur by that date. The exceptor's statement is that certain costs are incurred during the fall and winter and hence marketing policy recommendations should be made no later than January 1. Admittedly, there may be clean-up activity from the preceding crop and repairs and preparation for the oncoming crop. However, there is no evidence of significant activity directly on the hop plants prior to March 1. Should this occur in any State, the committee can meet well prior to March 1 pursuant to § 991.36. Accordingly, the exception is denied.

Exception was taken to the failure to add the following words at the end of the last sentence of § 991.37(a): "but not to sell or dispose of through normal channels any quantity of hops beyond his allotment of salable quantity." While the hearing record in this proceeding contains no objection to this proposed addition, the additional words would be repetitious. The final sentence of said paragraph states: "No handler may handle hops other than salable hops, except that a producer-handler may prepare hops for market." The definition of handle (§ 991.9) clearly fulfills the exceptor's point as to the sale or disposition of hops other than salable hops. Consequently, the exception is denied.

Exception was taken to the method for determining the annual allotment percentage without exempting all hops covered under bona fide contracts entered into prior to February 8, 1966. The exceptor gave an example wherein an uncontracted grower might receive more total return than a contracted grower and stated that contracted hops are actually already marketed and should not be subject to regulation. However, it is not feasible to attempt, or to rely on, equalization of total returns as between the two types of producers as a necessary program objective. The producer with hops contracted for future delivery at a price has unmeasurable benefits from that contract. In many instances, he pays no interest for crop loans advanced by the buyer. He has signed such a contract, in instances, for security and to strengthen planning of his farming operations. Contracts involving additional acreage may be entered into to permit more efficient use of equipment, to lower costs of production per pound of hops and to improve net, rather than gross, income. It is evident, therefore, that the situation which the exceptor refers to is one that exists without a marketing order. As to the issue of the hops already being marketed, marketing in-

volves the acts of transferring title and moving goods from producer to consumer. The execution of a contract does not transfer title on goods not in deliverable form, nor is the commodity, hops, moved from the producer until it is produced, harvested, dried, baled and inspected. In any event, the marketing order expressly provides for certain exemptions for the handling of hops covered by such contracts. In view of these considerations, the exception is denied.

Exceptions were taken to paragraph (a) § 991.38 in that the paragraph, as written, is difficult to read and comprehend. Also, exception was taken to the second sentence of said paragraph as possibly conflicting with the last sentence of § 991.46 where a producer's expansion arises from purchasing bearing acreage. Clarification was requested as to how the allotment base would be computed where acreage was sold or transferred following the 1965 harvest and prior to the effective date of the marketing order. To make the paragraph more readable and clarify the second sentence in § 991.38(a), in accordance with the record of this proceeding, said paragraph is separated into subparagraphs and the second sentence is modified to specify that the expansion of hop acreage is "as a result of new plantings," and to specify criteria which deal with producers who do not have any applicable sales history. A new sentence is added after the current second sentence to take care of expanded hop acreage as a result of purchase or transfer of hop acreage subsequent to the 1965 harvest but prior to the effective date of the marketing order. The seventh sentence in the fifth paragraph of material issue 3(i) is revised to read: "Hence, the committee with the approval of the Secretary should be permitted to waive such requirement, upon application to the committee and receipt of acknowledgement of such, for the 1966 crop for all producers except those producers whose hop acreage is expanding by reason of additional plantings or transfers of acreage and who have to prove the intention to grow hops by planting in 1966. However, all producers should be eligible for such waiver for the 1967 crop because all firm commitments would already have been substantiated." Also, the third sentence of the second paragraph of material issue 3(k) is deleted to conform with the aforementioned change. Also, the provision in current § 991.38(a)(2) is revised to conform with the previously mentioned clarifications. Accordingly, the exceptions are granted.

One exceptor requested consideration to be given to hop acreages which have been damaged due to the application of a chemical known as heptachlor. The record shows that the application of heptachlor as a pesticide had seriously damaged hop roots and, as a result, caused considerable reduction in the per acre yield of hops which had been treated with this chemical. The exceptor's position is that this circumstance should be considered in the determination of a producer's allotment base; and as the adverse effects of this pesticide diminish, consideration should be given to increasing the producer's allotment base. Consequently, the second sentence of the sixth paragraph of material issue 3(i) is revised to read as follows: "Some reasons for such action would be to satisfy demand for new or special varieties, to provide more equitable allotment bases where allotment bases reflect below normal sales as a result of heptachlor damage to plants, or to take care of an increased trade demand." Conforming changes in § 991.38(b) are made to effect this conclusion. Accordingly, the request of the exceptor is granted.

Exception was taken to the provision of § 991.38(a) which requires that in order for a producer to receive an allotment base, even though having a bona fide contract, he must plant hops no later than 1966. The exceptor contends that any producer with a contract entered into by February 8, 1966, the cutoff date, should be given an allotment base even though such contract calls for first delivery of hops in the year subsequent to 1966. However, having adopted a cutoff date, there is need to protect it and to quickly permit the committee to ascertain the total of all allotment bases so it can soundly plan both immediate and long-term marketing policy. Moreover, to qualify as a producer eligible for an allotment base, a person needs to be such in the representative period, or as the recommended decision states, for purposes of equity, so committed to hop production in 1966, should the program become operative in that year, so as to merit qualification. Planted acreage is proof that the person is a producer eligible for an allotment base and the contract is bona fide. In absence of this requirement, it is conceivable that persons could make contracts which they never intend to honor and inflated allotment bases could result. Such action would not be consistent with program objectives. Accordingly, the exception is denied.

Exception was taken to § 991.38(b) which refers to issuance of additional allotment bases to new or existing producers. The exceptors contend that said section should provide specific criteria for issuing additional allotment bases. The record in this proceeding and the recommended decision, as herein modified, state that the consideration of such need, and if the need exists, the granting of additional allotment bases shall be made to either a new producer or existing producer for such reasons as satisfying the demand for one or more varieties, to recognize below normal sales as a result of past heptachlor application, or to adjust all allotment bases to trade demand. These criteria are contained in said section, and the only further need is for administrative procedures to permit their application. Provision is made for these to be adopted by rule making procedures. Consequently, the exception is denied.

As a conforming change, the second proviso of § 991.38(c) is revised to read: "*And provided further,* That a handler may acquire from a producer who, except for this part, is legally obligated to deliver to said handler at a specific price a specific quantity of hops, from specified acreage of his own production, pursuant to the terms of a written contract entered into prior to, and effective by February 8, 1966, and calling for delivery of hops produced prior to 1971, and said handler shall be permitted through 1970 to acquire hops of the producer's own production to fulfill such contract terms, but the total so acquired by all handlers from the producer during any marketing year shall not exceed 100 percent of the producer's then effective allotment base."

Also, the last two sentences of the eighth paragraph of material issue 3(i) are revised to read as follows: "In addition, such exemption should be applicable only to handler acquisitions of hops produced prior to 1971 in fulfillment of contracts. However, the acquisitions of all handlers should be limited to 100 percent of the producer's allotment base to preclude deliveries in excess of the producer's productive level (as determined by his allotment base) and to restrict the delivery of indefinite volumes as 'overages' when permitted by the contract."

Exceptions were taken to material issue 3(k) and §§ 991.45 and 991.46 which deals with transfer of allotments. The exceptions stated that the committee or Secretary should maintain control and supervision of transfers. Their contention was that without supervision, producers would be able to transfer hop operations to different acreages and do such things as void contracts which call for a certain quantity of hops to be produced on certain land. However, this problem can arise without the existence of an order and the order should not concern itself with these matters. Unlike the price support programs which involve acreage control and acreage allotments assigned to the farm, based on the farm history, the Agricultural Marketing Agreement Act of 1937, as amended, provides for allotments based on sales by producers in a prior period. Thus, a producer is entitled to, receives, and retains, consistent with the method of allotting set forth in the marketing order, an allotment base. Consistent with the provisions of the order, it is his. Hence, he should be able to use it on locations of his choosing or to dispose of it to another producer. Neither the committee nor the Secretary should interfere with such actions, but knowledge sufficient to permit operation of the program should be obtained. As to the issue of denying a transfer until the committee and the Secretary are satisfied that no party or parties having an interest in the hop crop, machinery buildings or land will be injured by such transfer, such would place upon them responsibilities which they may find impossible to discharge. Here, too, the order should not concern itself with these matters. Accordingly, the exception is denied.

Exception was taken to the continuance of assessments in years when operation of regulatory provisions are not

warranted and to authority to increase assessments during a marketing year, to cover authorized expenses, after dealers have made sales based on given rates. The latter authority is in the nature of a "saving clause" to protect against an unanticipated assessment situation. Its usage, however, can be avoided by the committee recommending, and the Secretary establishing a safely adequate rate of assessment for each marketing year and experience with other marketing order programs indicates this is normally done. Moreover, if assessments are in excess of need, the excess must be refunded pro rata to the contributing handlers. As for assessments in years of no regulation, the provisions of the marketing order require several actions to be taken in advance of each marketing year and some following each such year. Consequently, it is impractical to suspend operations or assessments solely because of no regulatory activity. Therefore, the exceptions are denied.

Exceptions were taken to the first four general findings of the recommended decision on the basis that there is no evidence or inference from the evidence to support the findings. Presumably, they refer to the evidence adduced at the public hearing and in arriving at their exceptions have adopted views of program operation and the precise meanings of the findings which differ from those underlying the hearing record and the recommended decision. Since the evidence does support the findings and since no differences in production and marketing noted in the evidence make necessary different terms and provisions applicable to different parts of such area, the exceptions are denied.

Annexed hereto and made a part hereof are two documents entitled, respectively, "Order Regulating the Handling of Hops of Domestic Production" and "Marketing Agreement Regulating the Handling of Hops of Domestic Production," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among the producers who, during the period August 1, 1965, through May 31, 1966 (which period is hereby determined to be a representative period for the purpose of such referendum), have been engaged, in the production area, in the production for market of hops to determine whether such producers favor the issuance of the said annexed order regulating the handling of hops of domestic production.

Robert H. Eaton and Joseph C. Genske of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be the procedure for the conduct of referenda in connection with marketing orders for fruits, vegetables, and nuts pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 CFR 900.400 et seq.; 30 F.R. 15414).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed order.

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

Dated: June 29, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

Order [1] Regulating the Handling of Hops of Domestic Production

AUTHORITY: The provisions of this Part 991 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 991.0 Findings and determinations.

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure, as amended (7 CFR Part 900), a public hearing was held at Yakima, Wash., on March 1 through March 8, 1966, on a proposed marketing agreement and order (7 CFR Part 991), regulating the handling of hops of domestic production. On the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

(1) The said order, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order regulates the handling of hops produced in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which a hearing has been held;

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

(4) There are no differences in the production and marketing of hops in the production area covered by the order which require different terms applicable to different parts of such area; and

(5) All handling of hops produced in the production area is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

It is therefore ordered, That, on and after the effective date hereof, all han-

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

dling of hops produced in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order which are as follows:

DEFINITIONS

§ 991.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the U.S. Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 991.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 48 Stat. 31, as amended).

§ 991.3 Person.

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

§ 991.4 Hops.

"Hops" means the green or dried pistillate cones of the vine Humulus lupulus or Humulus americanus grown in the production area and includes residues from the preparation of hops for market, whether or not such residues are in the form of whole hops, portions of hops or lupulin, which can be used for a purpose for which hops are used.

§ 991.5 Salable hops.

"Salable hops" means those hops released for handling, including commercial acquisition or use, by the allotment percentage pursuant to § 991.37 and which constitute the annual allotments of producers.

§ 991.6 Production area.

"Production area" means all States with commercial production of hops and shall be divided into the following districts:

(a) District 1—Washington.
(b) District 2—Oregon.
(c) District 3—Idaho.
(d) District 4—California.

§ 991.7 Producer.

"Producer" is synonymous with "grower" and means any person engaged in a proprietary capacity in the commercial production of hops, including "cooperative" producers who are members of a cooperative hop marketing association and "independent" producers who are not.

§ 991.8 Handler.

"Handler" means any person who handles hops.

§ 991.9 Handle.

"Handle" means to prepare hops for market, acquire hops, use hops commercially of own production, or sell, transport or ship (except as a common or contract carrier of hops owned by another) or otherwise place hops into the current of commerce within the production area or from the area to points outside thereof, except that the preparation for market of salable hops by producers not dealers or brewers, or the sale, transportation or shipment of such hops by a producer to a handler of record, shall not be construed as handling.

§ 991.10 Marketing year.

"Marketing year" means the 12 months from August 1 to the following July 31, inclusive.

§ 991.11 Part and subpart.

"Part" means the order regulating the handling of hops grown in the production area and all rules, regulations and supplemental orders issued thereunder, and the aforesaid order shall be a "subpart" of such part.

HOP ADMINISTRATIVE COMMITTEE

§ 991.15 Establishment and membership.

A Hop Administrative Committee (hereinafter referred to as "committee") consisting of 13 members, each of whom shall have an alternate, is hereby established to administer the terms and provisions of this part. Positions 1 and 2 shall be for cooperative producers in District 1. Positions 3 through 7 shall be for independent producers in District 1, and shall be as follows: Positions 3 through 5 each representing one of three subdistricts of District 1; positions 6 and 7 representing independent producers-at-large in District 1. Positions 8 and 9 shall be for District 2 producers, 10 and 11 for District 3 producers, and 12 and 13 for District 4 producers. The subdistricts in District 1 shall be as follows: Subdistrict 1 shall be all that portion of the State of Washington lying north of the south line of Township 12 N., Subdistrict 2, shall be all that portion of the State of Washington lying south of the south line of Township 12 N., and west of the east line of Range 20 E. Subdistrict 3 shall be the rest of the State of Washington. The committee, with the approval of the Secretary, may change subdistrict boundaries to reflect significant changes in numbers of producers.

§ 991.16 Eligibility.

Each member and alternate of the committee shall be at the time of his selection and during his term of office, a producer, or an officer or employee of a producer, in the district or subdistrict for which selected and shall not be a full-time employee of a cooperative hop marketing association.

§ 991.17 Nominations.

(a) *General.* Producers in each district or subdistrict shall nominate persons for each committee member and each alternate position prescribed in § 991.15. Nominations shall be certified by the committee and submitted to the Secretary by December 1 of each year, together with information deemed by the committee to be pertinent or requested by the Secretary. If nominations for any position are not submitted in the specified manner by such date, the Secretary may select the representative for that position without nomination. For the purpose of obtaining the initial nominations, the Secretary shall perform the functions of the committee.

(b) *Committee members.* Nominations, other than for positions 1 and 2, shall be submitted to the Secretary on the basis of nomination meetings held by producers in each district or subdistrict. The committee shall hold and shall give reasonable publicity to nomination meetings and may use the principal grower organizations in each district or subdistrict to convene meetings of producers; and the nominees for positions 1 and 2 shall be submitted directly to the committee for certification to the Secretary by the cooperative associations. The eligible person receiving the highest number of votes for a member or alternate position shall be the nominee for that position. Only producers eligible to serve on the committee from the district or subdistrict in which the nominations are being conducted shall be eligible to vote, and each producer shall have one vote for each position to be filled. No producer shall participate in the election of nominees in more than one district. In case he is a producer in more than one district or subdistrict, he shall select in which of such district or subdistrict he will vote and notify the committee as to his choice. If the Secretary concludes, on the basis of a recommendation of the committee, that this procedure is unsatisfactory, or should be changed for any reason, he may change this procedure through formulation and issuance of superseding regulations.

§ 991.18 Procedure.

At an assembled meeting, all votes shall be cast in person and 10 members of the committee shall constitute a quorum. Decisions of the committee shall require the concurring vote of at least nine members. If both a committee member and his alternate are unable to attend a committee meeting, any other alternate from the same district, if not acting, may act in the place of the absent member and alternate. The committee may vote by mail, telephone, telegraph, or other means of communications: *Provided,* That each proposition is explained accurately, fully and reasonably identical to each member. All votes shall be confirmed in writing. A reasonable time limit may be set by the committee for receipt of written confirmation. Ten concurring votes and no dissenting vote shall be required for approval of a committee action by such method.

§ 991.19 Powers.

The committee shall have the following powers:

(a) To administer this subpart in accordance with its terms and provisions;

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

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

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

§ 991.20 Duties.

The committee shall have, among others, the following duties:

(a) To select from among its membership such officers and adopt such rules or bylaws for the conduct of its operations as it deems necessary;

(b) To appoint such employees as it may deem necessary, and to determine the compensation and to define the duties of each employee;

(c) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(d) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee;

(e) To cause the books of the committee to be audited by a certified public accountant at least once each marketing year and at such other times as the committee may deem necessary, or as the Secretary may request, to submit two copies of each such audit report to the Secretary, and to make available a copy which does not contain confidential data for inspection at the offices of the committee by producers and handlers;

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

(g) To investigate and assemble data on the growing, handling and marketing conditions with respect to hops;

(h) To submit to the Secretary such available information as he may request or the committee may deem desirable and pertinent;

(i) To notify producers and handlers of all meetings of the committee to consider recommendations for regulations and of all regulatory actions taken affecting producers and handlers;

(j) To give the Secretary the same notice of meetings of the committee and its subcommittees as is given to its members; and

(k) To investigate compliance and use means available to prevent violations of the provisions of this part.

HOP MARKETING ADVISORY BOARD

§ 991.22 Establishment and membership.

A Hop Marketing Advisory Board (hereinafter referred to as "board") consisting of five members, each of whom shall have an alternate, is hereby established to advise and assist the committee. Positions 1, 2, and 3 shall be one position each for each of the three handlers who handled the largest quantity of hops during the preceding marketing year. Position 4 shall be for all other handlers, other than extractors. Position 5 shall be for extractors of hops. Each member or alternate shall be a handler, or an officer or employee of a handler, in the position or group represented. For the purposes of this section, an extractor means a person primarily engaged in extracting from hops their commercially important components.

§ 991.23 Nomination.

Nominations for the respective positions shall be made by the handler or handlers involved and shall be submitted to the committee for certification and transmission to the Secretary, by December 1 of even numbered years, together with information deemed to be pertinent or requested by the Secretary. For member and alternate representation for positions 4 and 5, the nominees shall be selected at a meeting or by mail ballot, each eligible handler shall have one vote for each position and the person receiving the highest number of votes shall be the nominee.

§ 991.24 Duties.

The duties of the board shall consist of selecting officers from its members, establishing such bylaws as it deems necessary for performing its functions, making recommendations with respect to marketing policies, and the consideration of such other matters as it may deem advisable or the committee may request. It shall accept from any brewer or consumer of hops such information pertinent to marketing policy as may be offered and consider the same in making recommendations to the committee.

COMMITTEE AND BOARD

§ 991.25 Selection and term of office.

(a) *Selection.* Committee and board members shall be selected by the Secretary from nominees submitted by the committee or from among other eligible persons. Each person so selected shall qualify by filing a written acceptance with the Secretary prior to assuming the duties of the position.

(b) *Term of office.* The term of office of committee members shall be for a period of 2 calendar years except that the term of office of committee members holding odd numbered positions shall end on December 31 of odd numbered years, and committee members holding even numbered positions as set forth in § 991.15, shall end on December 31 of even numbered years. The terms of office of board members shall be 2 calendar years ending on December 31 of even numbered years. However, the initial term of office of each even number position on the board shall end on December 31, 1968. Committee and board members shall serve for the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ 991.26 Alternate members.

An alternate for a member shall act in the place of such member (a) in his absence, or (b) in the event of his death, removal, resignation, or disqualification, until a successor for his unexpired term has been selected and has qualified.

§ 991.27 Vacancy.

Any vacancy occasioned by the death, removal, resignation, or disqualification of any committee or board member shall, be recognized by the committee certifying to the Secretary a successor for the unexpired term, unless selection is deemed unnecessary by the Secretary.

§ 991.28 Expenses.

Members and alternates of the committee, and of the board, shall serve without compensation but shall receive such allowances for necessary expenses incurred in connection with their duties as may be approved by the committee.

RESEARCH

§ 991.30 Marketing research and development projects.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of hops. The expense of such projects shall be paid from funds collected pursuant to § 991.56, but the expenses of any projects involving reserve hops shall be allocated, as appropriate, in whole or in part, to funds obtained from the disposition of reserve hops. The handling of hops grown or used for research purposes may be exempted from regulation pursuant to such rules and regulations as the committee, with the approval of the Secretary, may adopt.

QUALITY REGULATION, INSPECTION, AND IDENTIFICATION

§ 991.31 Quality regulation.

Upon recommendation of the committee, the Secretary shall establish such minimum quality standards for hops in terms of their leaf and stem content and other quality factors as will tend to effectuate the objectives of this part and the declared policy of the act; and no handler shall acquire or use hops which fail to meet such standards. Hops failing to meet such standards shall be considered "substandard" hops and, except for disposition within his own farming operations, shall not be disposed of to persons other than the committee or its designees.

§ 991.32 Inspection and identification.

No handler shall handle, nor the committee receive for reserve pooling, hops which have not been inspected and certified for leaf and stem content and identified as prescribed by the committee. When minimum quality standards are established pursuant to § 991.31, only hops inspected and certified as meeting such requirements shall be eligible to be salable or reserve hops. Inspection and certification shall be by a Federal-State inspection service and the cost borne by the applicant. Inspection and identification shall be completed prior to November 15 or other date established pursuant to § 991.39. Such identification shall not be altered or removed by any

handler while in his control except when incidental to their disposition.

§ 991.33 Hops baled prior to effective date of this subpart.

Any producer holding hops baled prior to the effective date of this subpart is entitled, upon application made by the producer to the committee within 30 days after its establishment, to have such hops exempted from regulation under this part. Upon the committee determining the eligible poundage, it shall issue a release permitting any handler to handle such hops. Hops held by handlers on the effective date of this subpart but acquired prior thereto are also exempt from regulation under this part.

VOLUME LIMITATIONS

§ 991.36 Marketing policy.

Except as otherwise provided by the Secretary, but no later than March 1, or such earlier date as the committee, with the approval of the Secretary, may establish, the committee and the board shall hold such joint meetings as will enable the committee to adopt a marketing policy for the ensuing marketing year. The committee shall consider the recommendations of the board, the quantity of hops that should be made available for marketing to meet market requirements and to establish orderly marketing conditions, the prospective carryin of producers, handlers, and brewers, the desirable carryout, the prospective imports, and other factors affecting marketing conditions. If these considerations indicate a need for limiting the quantity of hops marketed, the committee shall recommend to the Secretary, a salable quantity and allotment percentage for the ensuing marketing year. Prior to August 1 of each year, the committee shall review its marketing policy and, if conditions warrant, recommend to the Secretary an appropriate increase in the salable quantity and allotment percentage for the ensuing crop as may be warranted. Notice of the marketing policy recommendations for a marketing year and any later changes shall be submitted promptly to the Secretary and all producers and handlers.

§ 991.37 Establishment.

(a) *Action by the Secretary.* If for any marketing year the Secretary finds, on the basis of the committee's recommendation or other information, that limiting the quantity of hops that may be freely marketed from any crop would tend to effectuate the declared policy of the act, he shall determine the salable quantity for such crop which handlers may handle. The salable quantity shall be prorated among producers by applying an allotment percentage to each producer's allotment base. The allotment percentage shall be established by the Secretary and shall be equal to the salable quantity divided by the total of all producer allotment bases established pursuant to § 991.38. Except as provided in this part, no handler may handle hops other than salable hops, except that a producer-handler may prepare hops for market.

(b) *Limitations on allotment percentage.* The respective allotment percentages applicable to the 1966 and 1967 crops shall be not less than 93 percent each. However, unless such is established prior to August 15, 1966, there shall be no allotment percentage applicable to the 1966 crop. No allotment percentage applicable to the 1968 and subsequent crops shall be less than 85 percent.

§ 991.38 Allotment of salable quantity.

(a) *Allotment bases.* (1) Except as otherwise provided in this section, the allotment base for each producer shall be the higher of:

(i) The highest average amount per acre sold from any three of his 1962, 1963, 1964, or 1965 harvested acreage multiplied by his 1965 acreage on which a bona fide effort was made to produce and harvest hops, or

(ii) 95 percent of the highest average amount per acre sold from either his 1962, 1963, 1964, or 1965 harvested acreage multiplied by his 1965 acreage on which a bona fide effort was made to produce and harvest hops.

(2) Where a producer's hop acreage is expanding as a result of new plantings, and where a bona fide effort was made to produce and harvest more hops, his allotment base shall include the volume, beginning with the 1966 or 1967 marketing year, whichever is the normal first year of harvest for such hops, obtained by multiplying the new harvested acreage of the producer planted to the same variety by his allotment base average sales per acre. Where such expansion arises from transfer of acreage, upon which hops were produced in 1965, and subsequent to 1965 harvest but prior to the effective date of this subpart, the allotment base shall be computed and determined in the same manner as though such acreage had not been transferred, but no such allotment base shall be granted unless the producer makes a bona fide effort to produce and harvest a 1966 crop from such acreage.

(3) If a producer has no applicable sales history for the reasons listed in this subparagraph, his allotment base, beginning with the first year of harvest, shall be the acreage multiplied by the average amount per acre sold for the like variety in the allotment bases of other producers in the state or locality, whichever is applicable, in which the acreage is located. The reasons are as follows:

(i) All his 1965 acreage was unharvested,

(ii) Part of his acreage was unharvested and planted to a variety with yields per acre substantially different from his harvested acreage, or

(iii) All of his acreage was planted and harvested in 1965, or part of his acreage was planted to a new variety and harvested in 1965, where first year harvesting is not the normal practice for the variety.

(4) However, new harvested acreage of subparagraphs (2) and (3) of this paragraph must have been planted to hops no later than 1966 and been committed to the production of hops by February 8, 1966, by either having entered into a bona fide contract calling for delivery of a specified quantity of hops at a specified price from such new acreage, by completing planting of hops, by completing construction of trellis or by meeting such other indications of commitment as the committee, with the approval of the Secretary, may prescribe.

(5) In accordance with this paragraph (a) and based on reports of handlers, producer certification and other information, the committee shall establish each producer's allotment base, and shall assign such allotment base to such producer. The right of each producer receiving an allotment base, or his legal successor in interest, to retain all or part of an allotment base shall be dependent on his continuing to make a bona fide effort to produce the annual allotment referable thereto and failing in any year to do so, such allotment base shall be reduced by an amount equivalent to such unproduced proportion: *Provided*, That the committee, with the approval of the Secretary, may waive such requirement and, upon application to the committee and receipt of acknowledgment of such, such requirement shall be waived for the 1966 crop for all producers except those whose hop acreage is expanding by reason of additional plantings or transfer of acreage and shall be waived for the 1967 crop for all producers.

(b) *Additional allotment bases.* Each marketing season the committee shall consider the need for granting, and if appropriate, grant, with the approval of the Secretary, additional allotment bases, to either a new producer or an existing producer, for such purposes as satisfying the demand for one or more varieties, providing more equitable allotment bases where allotment bases reflect below normal sales as a result of heptachlor damage to plants, or adjusting the total of all allotment bases to the trade demand. Administration of this provision shall be in accordance with such rules and regulations as the committee may prescribe, with the approval of the Secretary.

(c) *Issuance of annual allotments to producers.* As early as possible in each year, and subsequent to the committee's marketing policy meeting, the committee shall furnish each producer a form on which he may qualify for his annual allotment. Such form shall contain space for the producer to show changes in the locations, if any, where he intends to produce his annual allotment, and an agreement by the producer to report his production to the committee, and such other information as is necessary to carry out the provisions of this part. The committee, using such form, shall qualify and issue to each producer his appropriate annual allotment which shall be the allotment percentage times his effective allotment base: *Provided*, That where a producer chooses not to grow and harvest hops from all or part of his acreage, and he notifies the committee thereof prior to allotment issuance, it shall reduce the annual allotment consistent with such producer's ac-

tion: *And provided further,* That a handler may acquire from a producer who, except for this part, is legally obligated to deliver to said handler at a specific price a specific quantity of hops, from specified acreage of his own production, pursuant to the terms of a written contract entered into prior to, and effective by February 8, 1966, and calling for delivery of hops produced prior to 1971, and said handler shall be permitted through 1970 to acquire hops of the producer's own production to fulfill such contract terms, but the total so acquired by all handlers from the producer during any marketing year shall not exceed 100 percent of the producer's then effective allotment base.

(d) *Filling deficiencies in salable quantity.* (1) A producer who produced less than his annual allotment under conditions where he had sufficient hops under trellis to produce his allotment, taking into consideration his previous average yields and who according to normal commercial practice, made a bona fide effort to grow and harvest such hops may, prior to the date excess hops become reserve hops pursuant to § 991.39, fill any deficit in his annual allotment by acquiring hops from another producer that are in excess of such other producer's annual allotment. The committee shall be furnished a full report by such producers of the transaction, including the names of both parties, the quantity and such other information as will enable the committee to administer this provision. These requirements with respect to filling deficits may be modified by the committee with the approval of the Secretary.

(2) Any such producer who did not exercise his option to fill the deficit in his allotment prior to the date excess hops become reserve hops pursuant to § 991.39 or who fails to meet all of the requirements of subparagraph (1) of this paragraph shall be ineligible to acquire any such excess hops. Administration of this provision shall be in accordance with such rules and regulations as the committee may prescribe with the approval of the Secretary.

(e) *Information.* As a service to growers and handlers, the committee shall act as a clearing house of information on producers with deficits in production and the availability of hops in excess of salable. Such information shall be available at the committee office to any producer or handler upon request.

POOLING

§ 991.39 Reserve hops.

Hops baled, packaged, processed, or otherwise prepared for market that are in excess of an effective individual producer annual allotment or the total of such allotments to members of a cooperative marketing association and are held by any producer-handler or association on November 1, or such other date as the committee may prescribe, shall be reserve hops. No handler shall handle reserve hops; and no producer-handler or association shall deliver reserve hops to other than the committee or its designees. Only reserve hops so delivered to the committee or its designees shall be included in the reserve pool and the terms and conditions of delivery shall be made known, by the committee, prior to the date such excess hops become reserve hops. Any producer-handler not delivering his reserve hops by the closing date for pooling shall report the quantity, quality and variety held and may dispose of such hops only at the direction of the committee and only in nonnormal outlets.

§ 991.40 Reserve pool requirements.

(a) *General.* The committee shall pool reserve hops in a manner to accurately account for their receipt, storage and disposition. The committee shall establish categories in terms of quality and varieties and a schedule of relative values for settlement of pool accounts. Reserve hops from each crop shall be pooled separately. The committee shall designate a committee employee as reserve pool manager. Administration of the provisions in this section shall be in accordance with such rules and regulations as the committee may prescribe with the approval of the Secretary.

(b) *Disposition.* The committee shall endeavor to dispose of pooled reserve hops as soon as practicable following the date established in § 991.39 for delivery of reserve hops to the committee, or its designees, for the purpose of filling domestic and export trade requirements, taking into consideration the current supply and demand conditions at the time such disposition of reserve hops is being considered. Pooled reserve hops may be disposed of as follows:

(1) *Normal market outlets.* The committee shall offer pooled reserve hops for purchase by handlers for use in normal market outlets when necessary to meet domestic and export trade demand requirements not satisfied by salable hops. Offers to sell such hops to handlers, extension of offer periods, and withdrawal of offers before an offer period has expired, shall be subject to the disapproval of the Secretary. The committee may establish, with the approval of the Secretary, rules and regulations governing offers to handlers.

(2) *Marketing development.* Pooled reserve hops may be used by the committee in marketing development projects approved by the Secretary and such projects may be conducted by the committee directly or through handlers.

(3) *Nonnormal outlets, exchanges and closing of pools.* The committee shall, at any time, with the approval of the Secretary dispose of pooled reserve hops determined to be in excess of foreseeable needs in mulch, fertilizer or other nonnormal outlets. Prior to such disposition, the committee shall offer such reserve hops in exchange for salable hops held by producers which are damaged or otherwise unsuitable. After the completion of the exchange period, all remaining hops in such pool shall be disposed of in mulch, fertilizer or other nonnormal outlets. All such exchanges and dispositions in nonnormal outlets shall be subject to such terms and conditions as the committee, with the approval of the Secretary, may establish. A pool shall be considered closed when all receipts of hops have been disposed of.

(c) *Distribution of pool proceeds.* The proceeds from the disposition of reserve hops from each pool after deduction of any expense incurred by the committee in receiving, handling, holding, or disposing of hops in such pool, shall be distributed on a pro rata basis to the respective equity holders or their successors in interest on the basis of the quality, variety and the number of pounds credited to each account in the pool, with priority to those hops in the first division of ten percent in excess of the individual producer's annual allotment, except that distribution of the proceeds to members of cooperative hop marketing associations shall be made to such association. The committee may make payments to equity holders, or their successors in interest whenever sufficient monies are received from the sale or other disposition of pooled reserve hops in excess of estimated total pool expenses. A full accounting to each equity holder, or successor in interest, in each reserve pool shall be made by the committee annually on or before December 1 or such other date as the committee, with the approval of the Secretary, may prescribe. The committee may, with the approval of the Secretary, require advances by equity holders of anticipated expenses at the time hops are pooled.

§ 991.41 Substandard hops.

The committee may establish pools to assist in the disposition of substandard hops and the net proceeds from such disposition shall be distributed to the equity holders on the basis of the number of pounds credited to their account.

TRANSFERS

§ 991.45 Transfer of locations.

Nothing contained in this subpart shall prevent a producer from transferring from the location(s) where he produces his annual allotment to other land which he owns or leases. The committee shall, by such means as are provided in § 991.38(c), obtain information as to the location(s) where each producer intends to produce each annual allotment.

§ 991.46 Transfer to another producer.

A producer may transfer all or part of an allotment base from himself to another producer. Such a transfer shall be recognized, and annual allotments granted thereunder, upon the transferor and transferee so notifying the committee in writing and the transferee submitting evidence of capability to produce and harvest the annual allotment referable thereto in the first marketing year unless waiver is granted pursuant to § 991.38(a)(5). For any purchase of hop acreage occuring subsequent to the 1965 harvest, but prior to the effective date of this subpart, such purchase shall be recognized as a transfer of such portion of the allotment base as is applicable to the acreage purchased and in production in 1965.

EXPENSES AND ASSESSMENTS

§ 991.55 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for such purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate and for the maintenance and functioning of the committee. The committee shall submit to the Secretary a budget for each marketing year, including an explanation of the items appearing therein, and a recommendation as to the rate of assessment for such year.

§ 991.56 Assessments.

(a) *Requirements for payment.* Each handler shall pay to the committee upon demand, his pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment per pound fixed by the Secretary times the quantity of salable hops which he handles as the first handler thereof. At any time during or after a marketing year, the Secretary may increase the rate of assessment as necessary to cover authorized expenses. The payment of expenses for the maintenance and functioning of the committee may be required during periods when no regulations are in effect.

(b) *Excess funds.* At the end of a marketing year, funds in excess of the year's expenses shall be placed in an operating reserve not to exceed approximately one marketing year's operational expenses or such lower limits as the committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the committee for expenses authorized pursuant to § 991.55. Funds in excess of those placed in the operating reserve shall be refunded to handlers. Each handler's share of such excess shall be the amount of assessments he paid in excess of his pro rata share of the actual expenses of the committee and the addition, if any, to the operating reserve.

(c) *Accounting of funds upon termination of order.* Any money collected as assessments pursuant to this subpart and remaining unexpended in the possession of the committee after termination of this part shall be distributed in such manner as the Secretary may direct: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

REPORTS AND RECORDS

§ 991.60 Reports.

(a) *Inventory.* Each handler shall file with the committee a certified report showing such information as the committee may specify with respect to any hops which were held by him on January 1 and June 1 and such other dates as the committee may designate.

(b) *Receipts.* Each handler shall, upon request of the committee, file with the committee a certified report showing for each lot of hops received, the identifying marks, variety, weight, place of production, and the producer's name and address on December 31, and such other dates as the committee may designate.

(c) *Other reports.* Upon the request of the committee, with the approval of the Secretary, each handler shall furnish to the committee such other information as may be necessary to enable it to exercise its powers and perform its duties under this part.

§ 991.61 Records.

Each handler shall maintain such records pertaining to all hops handled as will substantiate the required reports. All such records shall be maintained for not less than 2 years after the termination of the marketing year to which such records relate.

§ 991.62 Verification of reports and records.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by producers and handlers, the Secretary and the committee through its duly authorized employees, shall have access to any premises where applicable records are maintained, where hops are received or held, and at any time during reasonable business hours shall be permitted to inspect such handler premises, and any and all records of such handlers with respect to matters within the purview of this part.

§ 991.63 Confidential information.

All reports and records furnished or submitted by handlers to, or obtained by the employees of, the committee which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler from whom received, shall be treated as confidential and the reports and all information obtained from records shall at all times be kept in the custody and under the control of one or more employees of the committee who shall disclose such information to no person other than the Secretary.

MISCELLANEOUS PROVISIONS

§ 991.70 Compliance.

No person shall handle hops except in conformity with the provisions of this part.

§ 991.71 Rights of the Secretary.

Members of the committee and of the board, and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every decision, determination, and other act of the committee shall be subject to the continuing right of disapproval by the Secretary at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 991.72 Derogation.

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

§ 991.73 Agents.

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

§ 991.74 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 991.75 Duration of immunities.

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

§ 991.76 Separability.

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

§ 991.77 Effective time.

The provisions of this subpart, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 991.78.

§ 991.78 Termination.

(a) *Failure to effectuate.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever he finds that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this subpart at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers who during the preceding marketing year produced for market more than 50 percent of the volume of hops so produced: *Provided,* That any referendum pursuant to an order issued by the Secretary to determine whether or not producers favor termination of this subpart shall be held during the first 15 days of October, but such termination shall be effective only if announced on or before November 15 of the then current marketing year.

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

§ 991.79 Proceedings after termination.

Upon termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. The said trustees shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (c) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto. Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 991.80 Effect of termination or amendment.

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

[F.R. Doc. 66-7304; Filed, July 1, 1966; 8:50 a.m.]

[7 CFR Parts 1001, etc.]

MILK IN THE MASSACHUSETTS-RHODE ISLAND MARKETING AREA, ET AL.

Decision 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), public hearings were held at Denver, Colo., on June 6, 1966; at St. Louis, Mo., on June 7–8, 1966; at Washington, D.C., on June 9–10, 1966; and at Cleveland, Ohio, on June 10, 1966, pursuant to notices thereof issued May 27, 1966 (31 F.R. 7757, 31 F.R. 7831, and 31 F.R. 7911), on proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in each of the marketing areas specified as follows:

7 CFR Part	Marketing area	Docket Nos.
1001	Massachusetts-Rhode Island.	AO 14-A39.
1002	New York-New Jersey	AO 71-A48.
1003	Washington, D.C.	AO 293-A13.
1004	Delaware Valley	AO 160-A31.
1005	Tri-State	AO 177-A26.
1008	Greater Wheeling	AO 268-A10.
1009	Clarksburg	AO 268-A10.
1011	Appalachian	AO 251-A7.
1012	Tampa Bay	AO 347-A3.
1013	Southeastern Florida	AO 286-A10.
1015	Connecticut	AO 305-A13.
1016	Upper Chesapeake Bay	AO 312-A9.
1031	Northwestern Indiana	AO 170-A20.
1032	Suburban St. Louis	AO 313-A11.
1033	Cincinnati	AO 166-A32.
1034	Dayton-Springfield	AO 175-A23.
1035	Columbus	AO 176-A20.
1036	Northeastern Ohio	AO 179-A26.
1038	Rock River Valley	AO 194-A13.
1039	Milwaukee	AO 212-A19.
1040	Southern Michigan	AO 225-A16.
1041	Northwestern Ohio	AO 72-A28 RO 1.
1043	Upstate Michigan	AO 247-A9.
1044	Michigan Upper Peninsula	AO 299-A10.
1045	Northeastern Wisconsin	AO 334-A9.
1046	Louisville-Lexington-Evansville.	AO 123-A30.
1047	Fort Wayne	AO 33-A33.
1048	Youngstown-Warren	AO 325-A6.
1049	Indianapolis	AO 319-A7.
1051	Madison	AO 329-A5.
1061	St. Joseph, Mo.	AO 327-A8 RO 2.
1062	St. Louis	AO 10-A35.
1063	Quad Cities-Dubuque	AO 105-A23.
1064	Kansas City	AO 23-A28 RO 2.
1065	Nebraska-Western Iowa	AO 86-A19.
1066	Sioux City, Iowa	AO 122-A13.
1067	Ozarks	AO 222-A20.
1068	Minneapolis-St. Paul, Minn.	AO 178-A17 RO 1.
1069	Duluth-Superior	AO 153-A11.
1070	Cedar Rapids-Iowa City	AO 229-A14.
1071	Neosho Valley	AO 227-A18.
1073	Wichita	AO 173-A17 RO 1.
1074	Southwest Kansas	AO 249-A7 RO 1.
1075	Black Hills, S. Dak.	AO 248-A6.
1076	Eastern South Dakota	AO 260-A8.
1078	North Central Iowa	AO 272-A9.
1079	Des Moines	AO 295-A10.
1090	Chattanooga	AO 266-A6.
1094	New Orleans	AO 103-A23.
1096	Northern Louisiana	AO 257-A12.
1097	Memphis	AO 219-A18.
1098	Nashville	AO 184-A23.
1099	Paducah	AO 183-A16.
1101	Knoxville	AO 195-A14.
1102	Fort Smith	AO 237-A14.
1103	Mississippi	AO 346-A2.
1104	Red River Valley	AO 298-A8.
1106	Oklahoma Metropolitan	AO 210-A20.
1108	Central Arkansas	AO 243-A15.
1120	Lubbock-Plainview	AO 328-A5.
1125	Puget Sound	AO 226-A13.
1126	North Texas	AO 231-A26.
1127	San Antonio	AO 232-A15.
1128	Central West Texas	AO 238-A17.
1129	Austin-Waco	AO 253-A11.
1130	Corpus Christi	AO 259-A14.
1131	Central Arizona	AO 271-A10.
1132	Texas Panhandle	AO 262-A12.
1133	Inland Empire	AO 275-A14.
1134	Western Colorado	AO 301-A5.
1136	Great Basin	AO 309-A8.
1137	Eastern Colorado	AO 326-A9.
1138	Rio Grande Valley	AO 335-A7.

PRELIMINARY STATEMENT

The aforesaid public hearings were four regional hearings held during the period June 6–10, 1966, at which the same issues with respect to all Federal milk orders were considered.

The material issues on the record of each of the hearings related to:

1. The appropriate level of Class I prices for the next few months; and
2. The need for emergency action.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearings and the records thereof:

1. *Class I prices.* In order that the full effect of the announced 50 cents per hundredweight increase in the level at which prices of manufacturing grade milk will be supported may be reflected immediately and with certainty in the Class I prices of Federal orders using the Minnesota-Wisconsin price series as a basic formula, provision should be made that in computing Class I prices in such orders through March 1967 the basic formula price used should be not less than $4 per hundredweight. In effect, this establishes for Class I price computations a floor on the basic formulas for the June 1966 to February 1967 period.

To provide comparable price assurance to Federal order producers in other markets, the New York-New Jersey order should be amended to provide that the base price level through March 1967 will be at least 22 cents higher than the existing formula would provide for the month of July; by a separate suspension action, the Delaware Valley order Class I price through March 1967 will be at least 20 cents above the price which the present formula would provide for the month of July; no action is necessary under the Massachusetts-Rhode Island, Connecticut, Upper Chesapeake Bay, and Washington, D.C., orders because tie-in provisions between these orders and the New York-New Jersey or Delaware Valley orders assure comparable prices in these markets.

The notices of hearing contained no specific proposals for amendment of the Class I pricing provisions of the orders under consideration, but each merely stated that the hearing was "with respect to amendments to reflect appropriate Class I prices in light of economic and marketing conditions anticipated for the next few months."

A general price proposal was presented at each hearing by the National Milk Producers Federation. Under this proposal Class I prices would be increased by not less than 45 cents per hundredweight above prevailing formula prices. The testimony indicated that this amount might be increased for some orders and decreased for others on the basis of testimony presented by producer cooperatives operating in these markets. It was also proposed that price increases be for an indefinite period.

It was also stated that the Federation recommended that this amendatory action in Federal orders be accompanied by an increase of 25 cents per hundredweight in the level of the price at which manufacturing grade milk is supported by government purchase of butter, cheese and nonfat dry milk. The level of the

support price was not, of course, a matter to be decided upon the basis of the record of this hearing but this action was recommended as an additional means of increasing Class I prices without additional increase in the spread between prices of milk for fluid use and those for manufacturing grade milk.

Another general proposal, that of Associated Dairymen, Inc., was for Class I price increases effective July 1 amounting to 50 cents per hundredweight above the prices that would otherwise be in effect and continuing through April 1967. It was suggested that a part of this increase be accomplished by increase in the level of price support and part by amendatory action resulting from this hearing in order to maintain appropriate relationships between the manufacturing milk price and the fluid milk price. An increase of 20 cents per hundredweight in the level of support price and an increase of 30 cents in Class I pricing provisions was suggested.

It was also advocated by other witnesses that Class I price increase be accomplished solely through increase in the price support level of manufacturing milk, except as additional adjustments by amendment might be required to maintain price alignment between orders, or to recognize unusual shortages or surpluses of supply.

General production conditions:

Milk production in the United States has been below the level of a year earlier each month since April 1965. From April through July 1965 production was down about 1 percent from the year before, and during following months and through the winter, the amount of decline accelerated. The greatest decrease was in February 1966 when production was 5.8 percent less than the year before. In March the decrease was 4.6 percent; in April 3.8 percent; and in May 4.1 percent.

For the Nation as a whole, May 1966 production decreased in 34 States, remained the same in 7, and increased in 9 compared to a year earlier. The May decline was greatest in the 12 North Central States, which include the most intensive milk production areas of the country of milk for both manufacturing and fluid purposes. Production declines in these States from a year earlier ranged from 3 percent in Indiana to 14 percent in North Dakota. In the major producing States of the region the decline was 6 percent in Wisconsin and 7 percent in Minnesota, Michigan, and Iowa. Comparable changes from a year earlier in the Northeast and Middle Atlantic States, the source of supply for the northeastern fluid milk markets, ranged from an increase of 2 percent in Maryland to decreases of 5 percent in New Hampshire, Vermont, and New York.

The drop in milk production is a direct result of the reduced number of milk cows on farms. Milk cows on farms were 4 percent fewer in December 1965 than in December 1964. During the last half of 1965, milk cows were eliminated from herds at the rate of 79 thousand per month whereas the rate at which milk cows were reduced in the last half of 1964 was 30,000 per month. The decline in number of milk cows was caused by higher culling rates and fewer heifer calves kept for milk production.

In May this year, milk production per cow was about 1.5 percent higher than a year earlier. In terms of total milk production, this gain was not sufficient to offset the reduction in number of milk cows. The increase in production per cow during March, April, and May compared to last year was a resumption of the longtime trend which was broken by no gain in January and lower production in February. The average production per cow is affected by elimination of poorer grade cows sold for slaughter.

The proportion of total milk production used to supply fluid markets increased about 1 percent in 1965 compared to the year before. This has left a smaller quantity available for manufacturing. With the reduction in total milk production the effect on milk available for manufacturing has been accentuated in the early part of 1966. Butter production during the first 3 months of this year was about 26 percent under the same period the year before, and cheese was down about 3 percent. Nonfat dry milk production, in the first quarter of 1966, was down 30 percent from a year earlier. In the first quarter of this year, use of milk for manufacturing was about 14 percent below a year earlier in terms of milk equivalent. A reduced production rate is continuing into the second quarter.

Stocks of most dairy products are below a year ago. In terms of milk equivalent, on April 1, stocks of all dairy products were about 35 percent below last year and the lowest on that date since 1952. Government stocks are at negligible levels.

The reduction in overall milk supplies, and increased prices for cheese and butter has generated active competition for supplies by manufacturing milk plants. The prices paid for manufacturing grade milk in Minnesota and Wisconsin averaged $3.60 for the months of January through May 1966, as compared to $3.23 for the same months of 1965. In May 1966, the price was 43 cents higher than in May 1965. At no time in the past 10 years have prices for manufacturing grade milk been higher than current prices. In some instances manufacturing plants have paid substantial premiums over such prices to attract bulk milk producers.

Federal order production and sales:

Producer deliveries have declined in Federal order markets but to a lesser degree than for all milk production. For the first 4 months of 1966 producer deliveries averaged 2.9 percent below a year earlier. For the same period, producer deliveries used as Class I milk were 2.9 percent above a year earlier. Sixty-five percent of all producer deliveries were used in Class I in these 4 months of 1966 and 63 percent in the same months of 1965.

Declines in producer deliveries and increases in Class I sales with consequent higher percentages of producer milk in Class I use were not experienced in all order markets. In 19 markets Class I utilization of producer milk was from 1 to 13 percent less in April this year than in April 1965. In five other markets there was no change in Class I utilization of producer milk. For the Federal order system as a whole sales increased 74 million pounds and producer receipts dropped 90 million pounds. Reserve supplies in Federal order markets were thus diminished by about 164 million pounds.

Hence it is apparent that a moderate but nevertheless significant decrease in supplies relative to Class I sales has occurred in the Federal order markets.

Milk prices:

The Class I price formulas used in the Federal order system are responding to the supply and demand situation which has developed in the milk order areas.

Much of the Class I price increase in Federal order markets during recent months is attributable to the rapid advance in manufacturing milk prices in the milk manufacturing States of Wisconsin and Minnesota. The Minnesota-Wisconsin manufacturing price series is used as a "basic formula price" in most Federal order markets, except in the Northeast. The marked shortening of supply for manufacturing purposes in Minnesota and Wisconsin caused a price advance on manufacturing milk of from 22 to 43 cents per hundredweight in the first 5 months of this year compared to the corresponding months of 1965.

While for 1965 as a whole the Class I prices under the orders averaged 5 cents per hundredweight higher than in 1964, the average Class I price in January 1966 was 15 cents higher than in January 1965. February 1966 Class I prices exceeded the average for February 1965 by 21 cents and the prices on March 1 (prior to the temporary suspension actions effective March 2) were up 33 cents over the March level a year ago. Including the higher prices resulting from the suspension action, the average Class I price for all markets for March 1966 was 45 cents above the March 1965 level. By May Class I prices in order markets had increased 63 cents over the same month in 1965.

The Class I milk prices of the northeastern orders do not reflect the advances in manufacturing milk prices. Nevertheless, for March 1966, including the higher prices resulting from the suspension action, Class I prices for the New England markets averaged 45 cents over March 1965. The Middle Atlantic markets (New York-New Jersey and Delaware Valley) averaged 22 cents higher, while Washington, D.C., and Upper Chesapeake Bay averaged 57 cents higher. For May 1966, the Class I prices for these groups of markets were 44 cents, 47 cents, and 53 cents higher, respectively, than for May 1965.

For the New England and Middle Atlantic markets, the higher Class I prices have resulted from advances in the factors comprising their Class I price formulas, such as the U.S. wholesale price index, consumer incomes, farm cost data, and supply-demand adjustors. The

Washington, D.C., and Upper Chesapeake Bay markets do not have formulas specifically of this type, but their Class I milk prices are directly related to the New York-New Jersey and Delaware Valley Class I prices.

Blended, or uniform prices, advanced in May this year from May 1965 approximately the same amount as Class I prices. The average blended price for 63 markets using manufacturing milk basic formula prices in May was 56 cents per hundredweight higher than in May last year. Blend prices for six northeastern markets, which do not have comparable basic formulas, averaged 57 cents higher in May 1966 than for May 1965. The effect of higher reserve milk prices on blend prices is particularly significant in markets such as New York-New Jersey and Massachusetts-Rhode Island where a substantial portion of producer receipts are utilized in the reserve milk classes.

Official notice is taken of a revised support price program to become effective July 1, 1966. The prices at which the Department will purchase milk products under the revised program should raise the general farm price level for manufacturing milk from the present minimum level of $3.50 to at least $4 per hundredweight (at average test). Actually, pay prices for manufacturing milk during recent months have exceeded the minimum established by the support levels. The $3.50 support price level for milk of average butterfat test is equivalent to about $3.35 for milk of 3.5 percent butterfat content. During May 1966 the average of prices paid for manufacturing grade milk at Minnesota and Wisconsin plants was $3.65.

In view of the strong demand for milk and other dairy products in relation to the supply, actual prices paid for manufacturing milk may continue to hold well above the support price level. However, to promote confidence in the outlook for dairying and thus assure continued production of an adequate milk supply for Federal order markets, an assured minimum Class I price level is needed at this time. This should be accomplished by specifying that the basic formula price in those orders where Class I prices are determined by the average price paid for manufacturing milk in Minnesota and Wisconsin plants be established for the purpose of Class I price computation at not less than $4 for the period July 1966 through March 1967.

By guaranteeing that the basic formula price used in calculating July Class I prices shall be not less than $4 the effect of the support price increase will be reflected in Class I prices immediately. Otherwise, the Class I price rise would be delayed one month since Class I prices in most orders are computed by using the basic formula for the preceding month.

Also, in view of the decline in milk production and the need to encourage producers in Federal order markets to continue supplying milk to these areas, this price assurance should be extended through March 1967, the period through which the new support program is effective. Although it is likely that this price series will average $4 or more during much of this period, the assurance of that level at this time is necessary to safeguard the milk supply for these markets.

Concerning the Northwestern Ohio order in particular, the Class I price provision should be extended through March 31, 1967. This is necessary to provide minimum Class I prices after July. A further hearing is scheduled for the Northwestern Ohio market where proposals will be considered to revise extensively the Class I pricing provisions of the order. In view of this, it is appropriate that the present basic provisions be extended through March 31, 1967, the period for which the basic formula floor price is provided. The evidence from the forthcoming hearing should provide a more complete basis for developing longer term amendments. The period through March 1967 should provide sufficient time to evaluate the evidence and adopt any necessary amendments.

A suspension order issued June 28, 1966, official notice of which is taken, extended the Northwestern Ohio Class I price provision through the month of July and continued in effect pending appropriate amendment action a temporary 22-cent price increase which has been effective since April 10. An amendment is included in this decision which likewise incorporates extension of the 22-cent price increase through July. The reasons for this price increase are the same as those set forth in the suspension order.

The Class I prices of the Youngstown-Warren, St. Joseph, Ozarks, Red River Valley, Lubbock-Plainview, San Antonio, Central West Texas, Austin-Waco, Corpus Christi, and Western Colorado orders are maintained in fixed alignment with other orders being amended. No amendments to these orders are required to carry out the conclusions of this decision.

The effect of the increase in support prices will serve to increase not only Class I prices in basic formula markets but also the prices of other classes in all markets since prices of such other classes are based upon either prices paid for manufacturing grade milk or market prices of manufactured dairy products purchased for support purposes. The influence of the change in the support program on these prices will, therefore, be fully reflected in the uniform or blend prices of Federal orders with basic formula prices, and to a substantial extent in other orders.

In the northeastern areas, since Federal order Class I prices are established on the basis of economic type formulas, the change in manufacturing milk prices will not be reflected in the Class I price level. A price sustaining action comparable to that in other markets should be effective in the orders for the northeast for the same period.

The effect of the using a $4 basic formula price in computing July Class I prices under other orders will be the amount by which the Minnesota-Wisconsin price for June may be less than $4. It is now estimated that the June price, before effect of the support price change, will be from $3.75 to $3.80. Translating this 20 to 25 cents difference to the basic index factor of the New York-New Jersey order and to the price brackets of the Delaware Valley order will accomplish appropriate comparability for this purpose.

Any Class I price increase in the New York-New Jersey order will be reflected in the Class I prices in the New England orders. Similarly, Class I price increases in the New York-New Jersey and Delaware Valley orders will be reflected in the Class I prices of the Upper Chesapeake Bay and Washington, D.C., orders. Accordingly, in order to make essentially comparable Class I price increases effective throughout the northeastern orders, action need be taken only to increase the Class I prices under the New York-New Jersey and Delaware Valley orders.

Accordingly, it is concluded that through March 1967, the basic price level of the New York-New Jersey order should not be less than 22 cents more than that which would otherwise be computed for July. This basic price level is subject to adjustment for supply-demand conditions and seasonal factors. The Class I price under the Delaware Valley order should be not less than $6.20 through March 1967. This is 20 cents higher than the Class I price, before supply-demand adjustment, would otherwise have been in July 1966. The Delaware Valley supply-demand adjustment for July 1966 is plus 20 cents.

The changes in the Delaware Valley Class I price will be made effective by a suspension action taken concurrently with this decision.

The spokesman for a group of Upper Chesapeake Bay handlers argued that the Class I price under that order should be considered separately and apart from the Class I prices in the other orders. He stated that no increase in the Upper Chesapeake Bay Class I price was justified because currently the supply of milk for the market relative to Class I sales is not significantly different from a year earlier.

There is a substantial overlapping of the Upper Chesapeake Bay production area with those of a number of nearby orders. Likewise, there is a substantial overlapping of the sales areas within which Upper Chesapeake Bay handlers compete with handlers regulated by other orders. If the Upper Chesapeake Bay Class I price were not increased at a rate comparable to the increase herein provided for such other orders, the price misalignment resulting would tend to jeopardize the maintenance of adequate supplies of milk for the Upper Chesapeake Bay market.

Certain handler interests argued that any price adjustments made as a result of these records should not be applicable to contract milk being disposed of on contracts awarded prior to any amendment unless the contract specifically included an escalator clause to cover an order price adjustment. The situation with respect to a handler holding a Government contract is no different than

that which would exist when an order is initially promulgated or any price adjustment amendment is processed. The Act requires the uniform application of the order provisions and there simply is no basis for pricing milk disposed of for consumption as fluid milk under Government contract at a different level than that otherwise disposed of for consumption. Similarly, there is no basis for a variation in the price of milk to handlers dependent on the terms of the contract. Handlers have been well aware of the continuing decline in milk production since early last fall and that under the pricing standards of the statute in these circumstances, a price increase would necessarily come under consideration.

(2) *Emergency action.* The due and timely execution of the function of the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision and opportunity for exceptions thereto on Issue No. 1. The conditions in these markets are such that it is urgent that remedial action be taken as soon as possible. Any delay in informing interested parties of the conclusions made will tend to make ineffective the relief sought. The time necessarily involved in the preparation, filing and publication of a recommended decision and the filing of exceptions thereto would in this instance contribute to the threat of an insufficient supply of milk for these markets.

The notice of hearing stated that consideration would be given to the economic and emergency marketing conditions relating to the proposed amendments. Action under the procedure described above was requested by numerous parties at the hearing.

It is therefore found that good cause exists for omission of the recommended decision and the opportunity for filing exceptions thereto.

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 to 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 each 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. The following findings are hereby made with respect to each of the aforesaid orders:

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

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

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

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in Certain Specified Marketing Areas" and "Order Amending the Order, Regulating the Handling of Milk in Certain Specified Marketing Areas," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of said marketing agreement are identical with those contained in the order, as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of Representative Period

The month of March 1966 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the certain specified marketing areas is approved or favored by producers, as defined under the term is of each of the orders, as amended and as hereby proposed to be amended, and who, during such representative period were engaged in the production of milk for sale within each of the aforesaid marketing areas.

Signed at Washington, D.C., on June 29, 1966.

George L. Mehren,
Assistant Secretary.

Order[1] Amending the Orders Regulating the Handling of Milk in Certain Specified Marketing Areas

7 CFR part and marketing area

1002 New York-New Jersey.
1005 Tri-State.
1008 Greater Wheeling.
1009 Clarksburg.
1011 Appalachian.
1012 Tampa Bay.
1013 Southeastern Florida.
1031 Northwestern Indiana.
1032 Suburban St. Louis.
1033 Cincinnati.
1034 Dayton-Springfield.
1035 Columbus.
1036 Northeastern Ohio.
1038 Rock River Valley.
1039 Milwaukee.
1040 Southern Michigan.
1041 Northwestern Ohio.
1043 Upstate Michigan.
1044 Michigan Upper Peninsula.
1045 Northeastern Wisconsin.
1046 Louisville-Lexington-Evansville.
1047 Fort Wayne.
1049 Indianapolis.
1051 Madison.
1062 St. Louis.
1063 Quad Cities-Dubuque.
1064 Kansas City.
1065 Nebraska-Western Iowa.
1066 Sioux City.
1068 Minneapolis-St. Paul.
1069 Duluth-Superior.
1070 Cedar Rapids-Iowa City.
1071 Neosho Valley.
1073 Wichita.
1074 Southwest Kansas.
1075 Black Hills.
1076 Eastern South Dakota.
1078 North Central Iowa.
1079 Des Moines.
1090 Chattanooga.
1094 New Orleans.
1096 Northern Louisiana.
1097 Memphis.
1098 Nashville.
1099 Paducah.
1101 Knoxville.
1102 Fort Smith.
1103 Mississippi.
1106 Oklahoma Metropolitan.
1108 Central Arkansas.
1125 Puget Sound.
1126 North Texas.
1131 Central Arizona.
1132 Texas Panhandle.
1133 Inland Empire.
1136 Great Basin.
1137 Eastern Colorado.
1138 Rio Grande Valley.

§ ———.0 Findings and determinations.

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 each 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. The following findings are hereby made

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

with respect to each of the aforesaid orders.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the above designated marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of milk in the respective designated marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid orders as amended and as hereby further amended, as follows:

1. In paragraph (a) of § 1002.40, subparagraph (1) is amended by substituting a colon for the period at the end of the paragraph and adding text which reads: "*Provided,* That from the effective date of this amendment through March 1967, the result calculated pursuant to this subparagraph shall be not less than 117.596."

2. Each of the sections specified below is amended by adding the following sentence at the end thereof: "However, for the purpose of computing the Class I price for each month from the effective date of this order through March 1967, the basic formula price shall not be less than $4."

Amended sections:		
1005.50	1046.50	1090.50
1008.50	1047.50	1094.50
1009.50	1049.50	1096.50
1011.50	1051.50	1097.50
1012.50	1066.50	1093.50
1013.50a	1068.51	1099.50
1031.50	1062.50	1101.50
1032.50	1063.50(a)	1102.50
1033.50	1064.50	1103.50
1034.50	1065.50	1106.50
1035.50	1069.50	1108.50
1036.50	1070.50(a)	1125.50
1038.50	1071.50	1126.50
1039.50	1073.50	1131.50
1040.50	1074.50	1132.50
1041.50	1075.50	1133.50
1043.50	1076.50	1136.51
1044.50	1078.50(a)	1137.50
1045.50	1079.50(a)	1138.50

3. In § 1041.51, paragraph (a) is revised to read as follows:

§ 1041.51 Class prices.

* * * * *

(a) *Class I milk price.* For the period through March 1967, the monthly Class I milk price shall be the basic formula price for the preceding month, plus the sum of the amounts specified under subparagraphs (1) and (2) of this paragraph: *Provided,* That from the effective date of this proviso through July 1966 add 22 cents.

(1) The amount set forth below for the applicable month, subject to any adjustment for location pursuant to § 1041.53:

August through March	$1.36
April through July	1.13

(2) Any amount by which the effective supply-demand adjustment for the month computed pursuant to part 1036 of this chapter (Northeastern Ohio order) differs from a minus 25 cents.

* * * * *

[F.R. Doc. 66-7322; Filed, July 1, 1966; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 21, 45, 91]

[Docket No. 7461; Notice 66-24]

SPECIAL AIRWORTHINESS CERTIFICATES

Notice of Proposed Rule Making

The Federal Aviation Agency is considering amending Parts 21, 45, and 91 of the Federal Aviation Regulations to provide for the issuance of special airworthiness certificates and to establish specific airworthiness requirements for amateur-built 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 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 August 31, 1966, 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 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.

The principal proposals set forth herein, would extend the operational privileges presently permitted under Class I provisional certification, for market surveys and sales demonstrations, to aircraft which are eligible for an experimental certificate, and would establish more comprehensive airworthiness standards for amateur-built aircraft as prerequisites to the issuance of special airworthiness certificates for such aircraft. These changes provide the opportunity to consolidate the requirements for the airworthiness certification of all so-called "nonstandard" aircraft and to provide for the use of a single special airworthiness certificate for such aircraft.

In addition to the standard airworthiness certificates which are issued for aircraft type certificated in the normal, utility, acrobatic or transport categories, the Agency presently issues airworthiness certificates for aircraft type certificated in the restricted and limited categories, provisional and experimental airworthiness certificates and special flight permits. Under this proposal, aircraft other than those eligible for standard airworthiness certificates, would be issued special airworthiness certificates identified as restricted, limited, provisional or experimental, as the case may be. Further, while amateur-built aircraft are currently issued experimental certificates, under this proposal specific airworthiness standards have been developed for such aircraft and they would also be issued a separate special type and airworthiness certificate. Finally, it is proposed to issue a special airworthiness certificate for aircraft to be used in operations presently covered by a special flight permit. The Agency considers that the issuance of special airworthiness certificates in place of special flight permits will remove some of the confusion regarding the status of flight permits.

Under the current regulations, manufacturers are authorized to conduct various operations, including market surveys and sales demonstrations, on aircraft that, while not fully type certificated, have been issued Class I provisional type and airworthiness certificates.

Only manufacturers are eligible to apply for such provisional certificates and the regulations contain specific airworthiness requirements applicable thereto. With the exception of market surveys and sales demonstrations, the operations presently permitted under Class I provisional certificates may also be conducted under current experimental certificates. Furthermore, experience over the years has shown that the airworthiness requirements currently applicable to Class I provisional certification are also unnecessarily restrictive with respect to aircraft to be used for market surveys and sales demonstrations and that the requirements can be relaxed without any adverse affect on safety. Therefore, as proposed herein, Class I provisional certificates would no longer be issued and market surveys and sales demonstrations by manufacturers would be considered as an experimental purpose for which the Agency would issue a special airworthiness certificate. As in all other cases of special airworthiness certification, safety of the operation would be provided through the imposition of appropriate operating limitations. It should be noted that while under this proposal provisional certification of aircraft would no longer be necessary in order for manufacturers to use such aircraft in conducting market surveys and sales demonstrations, such operations would still be permitted in provisionally certificated aircraft.

In the past, amateur-built aircraft have been certificated only as experimental aircraft, in accordance with the material formerly set forth in CAM 1.74–3. As experimentally certificated aircraft, amateur-built aircraft are necessarily subject to very restrictive operating limitations. In view of the increasing interest being shown in amateur building, the Agency now considers it appropriate to establish airworthiness standards which, while not as comprehensive and detailed as required for standard certification, are specifically tailored to the amateur-built aircraft. Therefore, under this proposal, an amateur-built aircraft complying with the increased design and performance standards would be issued a special type and airworthiness certificate for amateur-built aircraft rather than an experimental certificate. This would permit a relaxation of the operating limitations which are applicable to such aircraft when operated under experimental certificates. However, as proposed herein, persons desiring to operate or to continue operating in the experimental classification would be permitted to do so under an experimental special airworthiness certificate. With respect to the new special type and airworthiness certificates for amateur-built aircraft, the airworthiness standards proposed herein would, among other things, establish flight and ground handling characteristics requirements for the amateur-built aircraft which are more detailed than those presently applicable to such aircraft. In order to provide for an adequate safety margin, it is proposed that airplanes be tested either to a speed not less than 130 percent of the maximum indicated airspeed obtainable in level flight or to a speed 30 miles per hour above such maximum indicated airspeed. Rotorcraft would be flight tested to the highest speed at which the roughness of the rotor blade operation remains tolerable. However, for rotorcraft this speed could not be less than the best-rate-of-climb speed. The airspeed indicator would have to be permanently marked with a red line at an indicated airspeed which is 90 percent of the airspeed at which the flight test is conducted. It is also proposed to adopt more detailed requirements regarding stall characteristics than those currently applicable to the amateur-built airplane. The stall speeds would have to be established at both extremes of the airplane center of gravity range and the airspeed indicator marked with a red line at the indicated stall speed in the landing configuration. The climb requirements for amateur-built airplanes would be similar to those required under Part 23. It is proposed that rotorcraft, except helicopters, have an angle of climb with a slope not less than 1:6 at sea level with the engines operating at maximum continuous power. Helicopters would have to be capable of hovering at maximum weight in ground effect at 4,000 feet altitude in standard atmosphere.

In order to accommodate the proposed change regarding the issuance of special airworthiness certificates, the marking requirements of Part 45 would have to be amended to require that aircraft issued a special airworthiness certificate display the word "special" near each entrance to the cabin or cockpit rather than the words "limited," "restricted," "experimental," or "provisional" currently required.

Changes to Part 91 are also necessary in order to implement the changes being made to Part 21. In this connection, the term "special flight permit" would be deleted from the requirements of § 91.27 since under this proposal, a special airworthiness certificate would be issued in place of the current special flight permits. Moreover, it is proposed to add to Part 91 operating limitations expressly applicable to aircraft for which special airworthiness certificates have been issued. Except for minor editorial changes, the current operating limitations for restricted, limited and provisional certificated aircraft would remain the same.

In addition, the eligibility requirements for airworthiness certificates set forth in § 21.173 would be changed to make it clear that the registered owner of the aircraft who is a U.S. citizen or the agent of the owner may apply for an airworthiness certificate for that aircraft.

In consideration of the foregoing, it is proposed to amend Parts 21, 45, and 91 of the Federal Aviation Regulations as follows:

2. By amending § 21.77 by striking out paragraph (b).

§§ 21.73, 21.77 [Amended]

1. By amending § 21.73 by striking out the words "Class I or" in paragraph (a) and by striking out paragraph (b).

§ 21.81 [Deleted]

3. By striking out § 21.81.

4. By amending Subpart H of Part 21 to read as follows:

Subpart H—Airworthiness Certificates

§ 21.171 Applicability.

This subpart prescribes procedural requirements for the issue of airworthiness certificates.

§ 21.173 Eligibility.

Any registered owner of an aircraft who is a U.S. citizen (or the agent of the owner) may apply for an airworthiness certificate for that aircraft. An application for a standard airworthiness certificate must be made on FAA Form 305 and an application for a special airworthiness certificate must be made on FAA Form —. All applications must be submitted to the local FAA District Office.

§ 21.175 Airworthiness certificates: classification.

(a) A standard airworthiness certificate is issued for aircraft type certificated in the normal, utility, acrobatic, or transport category.

(b) A special airworthiness certificate is issued for—

(1) Aircraft type certificated in the limited or restricted category;

(2) Aircraft issued provisional type certificates;

(3) Amateur-built aircraft;

(4) Aircraft involved in ferry flights (except ferry flights conducted by air carriers under § 91.45 of this chapter); and

(5) Aircraft to be used for one or more of the following experimental purposes:

(i) *Research and development.* Testing new aircraft design concepts, new aircraft equipment, new aircraft installations, new aircraft operating techniques, or new uses for aircraft;

(ii) *Showing compliance with regulations.* Conducting flight tests and other operations to show compliance with the airworthiness regulations including flights to show compliance for issuance of type and supplemental type certificates, flights to substantiate major design changes, and flights to show compliance with the function and reliability requirements of the regulations;

(iii) *Crew training.* Training of the applicant's flight crews of United States' registered aircraft;

(iv) *Exhibition.* Exhibiting the aircraft's flight capabilities, performance, or unusual characteristics at airshows, meets, fairs, and similar affairs, including motion picture, television, and similar productions, and the maintenance of exhibition flight proficiency;

(v) *Air racing.* Participating in air races which are officially sanctioned by

the Professional Racing Pilots Association, The National Aeronautics Association, The Soaring Society of America, or similar organizations, including (for such participants) practicing for such air races and flying to and from racing events;

(vi) *Production flight tests.* Flight tests under FAA-approved production flight test procedures;

(vii) *Market surveys.* Use of aircraft for purposes of conducting market surveys and sales demonstrations; and

(viii) *Operating amateur-built aircraft.* Operating amateur-built aircraft which have not been shown to meet the requirements for the issuance of a special type and airworthiness certificate for amateur-built aircraft.

§ 21.177 Amendment.

An airworthiness certificate may be amended only upon application to the Administrator. An application to amend standard airworthiness certificates must be made on FAA Form 305 and an application to amend special airworthiness certificates must be made on FAA Form —. All applications must be submitted to the local FAA District Office.

§ 21.179 Transferability.

(a) A standard airworthiness certificate is transferred with the aircraft.

(b) A special airworthiness certificate is transferred with the aircraft if it is issued for aircraft covered under § 21.175 (b) (1) through (4) except that for aircraft issued a provisional type certificate, the transfer may be made only to an air carrier eligible to apply for the certificate under § 21.213(b).

(c) Special airworthiness certificates covering the experimental purposes set forth in § 21.175(b) (5) are not transferable.

§ 21.181 Duration.

(a) Unless sooner surrendered, suspended, revoked, or a termination date is otherwise established by the Administrator, airworthiness certificates are effective as follows:

(1) A standard airworthiness certificate and a special airworthiness certificate for aircraft type certificated in the restricted or limited category are effective as long as the maintenance, preventive maintenance, and alterations are performed in accordance with Parts 43 and 91 of this chapter and the aircraft is registered in the United States.

(2) A special airworthiness certificate issued for a provisionally type certificated aircraft is effective for the duration of the provisional type certificate, amendment to a provisional type certificate, or a provisional amendment to the type certificate.

(3) Unless otherwise specified by the Administrator, a special type and airworthiness certificate issued for amateur-built aircraft is effective for one year after date of issue.

(4) A special airworthiness certificate issued for aircraft involved in ferry flights is effective for the period of time specified in such certificate.

(5) A special airworthiness certificate issued for aircraft other than those specified in subparagraphs (1), (2), (3), and (4) of this paragraph is effective for one year after the date of issue or renewal unless a shorter period is prescribed by the Administrator, or until transfer of ownership of the aircraft, whichever occurs first.

(b) The owner, operator, or bailee of the aircraft shall, upon request, make it available for inspection by the Administrator.

(c) Upon suspension, revocation, or termination by order of the Administrator of an airworthiness certificate, the owner, operator, or bailee of an aircraft shall, upon request, surrender the certificate to the Administrator.

§ 21.182 Special airworthiness certificates; aircraft to be used for experimental purposes.

(a) *General.* Except as provided for in paragraph (b) of this section, any registered owner of the aircraft who is a U.S. citizen (or the agent of the owner) may apply for a special airworthiness certificate covering one of the experimental purposes listed in § 21.175. An applicant is entitled to the certificate when he submits the following information:

(1) The estimated time required for the experiment.

(2) Areas over which it is desired to conduct operations.

(3) Crew required to operate or test the aircraft and its equipment, e.g., pilot, copilot, navigator, etc.

(4) Dimensional three-view drawings (or equivalent photographs) of the aircraft; weight and balance report; estimated or known performance data; record of alteration, modification, or repair; record of inspection; general descriptive design information; and proof of military acceptance, if applicable.

(5) A statement, with satisfactory evidence in support thereof, that the aircraft is to be operated for one or more of the experimental purposes described in § 21.175(b) (5).

(6) Upon inspection of the aircraft by the Administrator, any other pertinent information considered necessary (by the Administrator) for the purpose of prescribing operating limitations.

(b) *Market surveys and sales demonstrations.* (1) A manufacturer of aircraft manufactured within the United States, who is a U.S. citizen, may apply for a special airworthiness certificate for aircraft to be used for market surveys and sales demonstrations.

(2) A manufacturer of aircraft engines, who is a U.S. citizen and who has altered a type certificated aircraft by installing different type certificated engines, manufactured by him within the United States, may apply for a special airworthiness certificate for aircraft to be used for market surveys and sales demonstrations, if the basic aircraft, before alteration, was type certificated in the normal, utility, acrobatic, or transport category.

(3) An applicant for a special airworthiness certificate under this paragraph is entitled to the certificate if—

(i) He meets the eligibility requirements of paragraph (a) of this section;

(ii) He submits the information required in paragraph (a) of this section;

(iii) He has established an inspection and maintenance program for the continued airworthiness of the aircraft;

(iv) He shows that the aircraft has been flown for at least 50 hours under a special airworthiness certificate for another purpose or purposes; and

(v) The Administrator finds that there is no feature, characteristic, or condition of the aircraft that would make the aircraft unsafe when operated in accordance with the limitations established in § 91.39 of this chapter.

§ 21.183 Issue of airworthiness certificates for normal, utility, acrobatic, and transport category aircraft.

(a) *Aircraft manufactured under a production certificate.* An applicant for an original airworthiness certificate for an aircraft manufactured under a production certificate is entitled to an airworthiness certificate without further showing, except that the Administrator may inspect the aircraft for conformity to the type design.

(b) *Aircraft manufactured under type certificate only.* An applicant for an original airworthiness certificate for an aircraft manufactured, under a type certificate only, is entitled to an airworthiness certificate upon presentation of a statement of conformity for the aircraft issued by the manufacturer, and if the Administrator finds after inspection that the aircraft conforms to the type design and is in a condition for safe operation.

(c) *Import aircraft.* An applicant for an original airworthiness certificate for an import aircraft type certificated in accordance with § 21.29 is entitled to an airworthiness certificate if the country in which the aircraft was manufactured certifies, or the Administrator finds, that the aircraft conforms to the type design and is in a condition for safe operation.

(d) *Other aircraft.* An applicant for an airworthiness certificate for an aircraft not covered by paragraphs (a) through (c) of this section is entitled to an airworthiness certificate if—

(1) He presents evidence to the Administrator that the aircraft conforms to a type design approved under a type certificate or a supplemental type certificate and to applicable airworthiness directives;

(2) The aircraft (except an experimentally certificated aircraft that previously had been issued a standard airworthiness certificate under this section) has been inspected and found airworthy—

(i) By the manufacturer;

(ii) By an appropriately certificated domestic repair station;

(iii) By a certificated air carrier having adequate overhaul facilities and having a maintenance and inspection organization appropriate to the aircraft type; or

(iv) In the case of a single-engine airplane, by the holder of an inspection authorization issued under part 65 of this chapter; and

(3) The Administrator finds after inspection, that the aircraft conforms to the type design, and is in a condition for safe operation.

§ 21.185 Issue of special airworthiness certificates for restricted category aircraft.

(a) *Aircraft manufactured under a production certificate or type certificate only.* An applicant for the original issue of a special airworthiness certificate for an aircraft type certificated in the restricted category, that was not previously type certificated in any other category, must comply with the appropriate provisions of § 21.183.

(b) *Other aircraft.* An applicant for a special airworthiness certificate for an aircraft type certificated in the restricted category, that was either a surplus aircraft of the Armed Forces or previously type certificated in another category, is entitled to an airworthiness certificate if the aircraft has been inspected by the Administrator and found by him to be in a good state of preservation and repair and in a condition for safe operation.

§ 21.187 Issue of multiple airworthiness certification.

(a) An applicant for a special airworthiness certificate for an aircraft type certificated in both the restricted category and the limited category, or an applicant for a standard and a special airworthiness certificate for an aircraft type certificated in both the standard and restricted categories, is entitled to the certificates if—

(1) He shows compliance with the requirements for each category, when the aircraft is in the configuration for that category; and

(2) He shows that the aircraft can be converted from one category to another by removing or adding equipment by simple mechanical means.

(b) The operator of an aircraft certificated under this section shall have the aircraft inspected by the Administrator, or by a certificated mechanic with an appropriate airframe rating, to determine airworthiness each time the aircraft is converted from the restricted category to another category for the carriage of passengers for compensation or hire, unless the Administrator finds this unnecessary for safety in a particular case.

§ 21.189 Issue of special airworthiness certificate for limited category aircraft.

(a) An applicant for a special airworthiness certificate for an aircraft type certificated in the limited category is entitled to the certificate when—

(1) He shows that the aircraft conforms to that type certificate; and

(2) The Administrator finds, after inspection (including a flight check by the applicant), that the aircraft is in a good state of preservation and repair and is in a condition for safe operation.

(b) The Administrator prescribes limitations and conditions necessary for safe operation.

§ 21.191 Issue of special type and airworthiness certificates for amateur-built aircraft.

(a) An applicant for a special type and airworthiness certificate for an amateur-built aircraft is entitled to the certificate if he shows—

(1) That the major portion of the structural parts and assemblies of the aircraft was fabricated and assembled from mill stock or raw materials by persons who undertook the process of construction solely for their own recreation or for educational purposes; and

(2) That the aircraft meets the requirements of § 21.192.

(b) The applicant must submit the following information:

(1) A statement in a form and manner prescribed by the Administrator setting forth the purpose for which the aircraft is to be used.

(2) Enough data (such as photographs) to identify the aircraft.

(3) Upon inspection of the aircraft by the Administrator, any other pertinent information considered necessary for the purpose of prescribing operating limitations.

(4) The rating of the engine and propellers.

(5) The seating arrangements.

(6) A statement as to whether the aircraft has single or dual control.

(7) The fuel and oil capacities and, if a two-cycle engine is used, the oil grade and oil-in-fuel ratio.

(8) Maximum speeds at which the applicant intends to operate the aircraft in various flight configurations.

(9) A statement of the design criteria.

(10) Bill of materials and proof that the materials are of aircraft quality.

(11) A flight-test report.

§ 21.192 Amateur-built aircraft—airworthiness standards.

(a) *Design and construction.* (1) Unless equipment and accessories (such as pumps, fuel valves, oil valves, tires, wheels, brake assemblies, batteries, electrical system components, and shock absorbers) are shown to meet aeronautical standards that are acceptable to the Administrator, they must be tested to demonstrate that they satisfactorily perform their intended functions. All hardware used, such as screws, nuts, rivets, bolts, clevises, turnbuckles, clamps, pulleys, and tube fittings, must conform to established commercial or Government specifications, e.g., AN, SAE, NAS, MIL–SPEC.

(2) Materials used must be of acceptable aircraft quality.

(3) Protrusions and sharp corners which are likely to cause injury to the pilot or passengers must be removed.

(4) The powerplant fire protection requirements set forth in §§ 23.1183 through 23.1193 of Part 23 of this chapter must be complied with.

(5) The instruments and equipment required by § 91.33(b) of Part 91 of this chapter for VFR day flight must be installed. If the aircraft is to be approved for VFR night and IFR, the instruments and equipment required by § 91.33 (c) and (d) of Part 91 of this chapter must be installed.

(6) The applicable provisions of §§ 23.1093 through 23.1097 of Part 23 of this chapter, dealing with carburetor icing, must be complied with.

(7) The critical engine temperatures, pressures, and speeds which, if exceeded, would be detrimental to the engine, propeller, or aircraft must be established and displayed as operating limitations on markings or placards.

(8) The grade of fuel which will not cause destructive detonation and which will minimize the possibility of vapor lock must be determined by engine tests.

(b) *Flight and ground-handling characteristics.* (1) The aircraft may have no flight characteristics or flight operational features which make the aircraft unsafe for its intended operations.

(2) Prior to the first flight, the complete powerplant installation, including the propeller, as installed on the aircraft, must be shown to be satisfactory by at least 1 hour of ground operation from idle to full throttle. The full throttle portion of the operation must be made with the aircraft situated in a position that would represent its most critical climb attitude.

(3) Aircraft having type certificated engines must be flight-tested for at least 10 hours and aircraft having non-type-certificated engines must be flight-tested for at least 50 hours.

(4) It must be possible to make a smooth transition from one flight condition to another without exceptional piloting skill, alertness, or strength, and without danger of exceeding the limit load factor under any probable operation condition.

(5) The primary flight controls for the aircraft must operate in the plane, and with the sense of motion of the aircraft which their operation is intended to produce.

(6) Each part of the aircraft must be free from excessive vibration, including excessive blade vibration for rotorcraft, under any appropriate speed and power conditions up to the maximum speed expected in normal operations.

(7) Airplanes must be flight-tested to a speed not less than 130 percent of the maximum indicated airspeed attainable in level flight using maximum continuous power, or must be flight-tested to an indicated airspeed which is 30 mph above the maximum indicated airspeed attainable in level flight using maximum continuous power. Rotorcraft must be flight-tested to the highest speed at which the roughness of the rotor blade operation remains tolerable. This speed must be not less than the best rate-of-climb speed determined in accordance with subparagraph (11) of this paragraph. During flight tests at the high speed, all aircraft must be safely controllable and may exhibit no unsafe high-speed flight characteristics. The airspeed indicator must be permanently marked with a red line at an indicated airspeed which is 90 percent of the air-

speed at which the flight test is conducted.

(8) It must be demonstrated by flight test that normal lateral and directional control of the airplanes is possible until evidence of a stall condition is apparent. It must not be necessary to make violent or extreme aileron or rudder control movements to maintain lateral or directional control. Airplanes must be demonstrated to have satisfactory straight and turning flight stall characteristics without power and with power. Turning flight stalls must be demonstrated during a 30° coordinated hooked turn. All stalls must be conducted at maximum weight with the c.g. in the maximum forward and aft positions. Safe and prompt recovery from stalls must be demonstrated. The airspeed indicator must be permanently marked with a red line at the indicated stall speed in the landing configurations.

(9) Airplanes must have a rate of climb at maximum weight, at sea level, under standard atmospheric conditions, of at least 300 feet per minute at an angle of climb of at least 1:12 with engines operating at maximum continuous power.

(10) Rotorcraft, except helicopters, must have an angle of climb with a slope not less than 1:6 at maximum weight and at sea level with the engines operating at maximum continuous power. Helicopters must be capable of hovering at maximum weight in ground effect at 4,000 feet altitude in standard atmosphere.

(11) The best rate-of-climb speed must be determined for rotorcraft at the maximum weight and at sea level under standard atmospheric conditions.

(c) *Placards and markings.* The following information must be furnished for each aircraft by conspicuous placards or markings:

(1) Power-off limitations on rotorcraft operations.

(2) Prohibition against intentional spins and acrobatics.

(3) Procedures for operation of equipment which may be subject to incorrect operation and which is essential to safe operation.

(4) The airspeed indicator markings provided for in paragraph (b) (7) and (8) of this section.

(5) The critical engine temperatures, pressures, and speeds determined in accordance with paragraph (a) (7) of this section.

§ 21.193 Issue of special airworthiness certificates for aircraft involved in ferry flights.

(a) Except as provided for air carrier aircraft under § 91.45 of this chapter, a special airworthiness certificate may be issued for an aircraft that may not currently meet applicable airworthiness requirements but is capable of safe flight, for the purpose of—

(1) Flying aircraft to a base where repairs, alterations, or maintenance are to be performed, or to a point of storage;

(2) Delivering aircraft in the normal trade channels; or

(3) Evacuating aircraft from areas of impending danger.

(b) A special airworthiness certificate may also be issued to authorize the operation of aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available. The excess weight that may be authorized under this paragraph is limited to the additional fuel, fuel carrying facilities, and navigational equipment necessary for the flight.

(c) An applicant for a special airworthiness certificate under this section must submit the following information:

(1) The purpose of the flight.

(2) The proposed itinerary.

(3) The crew required to operate the aircraft and its equipment, e.g., pilot, copilot, navigator, etc.

(4) The ways, if any, in which the aircraft does not comply with the applicable airworthiness requirements.

(5) Any restrictions the applicant considers necessary for safe operation of the aircraft.

(6) Any other information considered necessary by the Administrator for the purpose of prescribing operating limitations.

5. By amending Subpart I of Part 21 to read as follows:

Subpart I—Special Airworthiness Certificates for Aircraft Issued Provisional Type Certificates

§ 21.211 Applicability.

This subpart prescribes procedural requirements for the issue of special airworthiness certificates for aircraft having provisional type certificates.

§ 21.213 Eligibility.

(a) A manufacturer who is a United States citizen may apply for a special airworthiness certificate for provisionally type certificated aircraft manufactured by him within the United States.

(b) Any holder of an air carrier operating certificate under Part 121 or Part 127 of this chapter who is a United States citizen may apply for a special airworthiness certificate for transport category aircraft that meet either of the following:

(1) The aircraft has a current provisional type certificate or an amendment thereto.

(2) The aircraft has a current provisional amendment to a type certificate that was preceded by a corresponding provisional type certificate.

§ 21.215 Application.

Applications for special airworthiness certificates for aircraft issued provisional type certificates must be submitted to the Chief, Engineering and Manufacturing Branch, Flight Standards Division, of the region in which FAA Regional Office for the area in which the manufacturer or air carrier is located (or, in the case of the Western Region, the Chief, Aircraft Engineering Division). The application must be accompanied by the pertinent information specified in this subpart.

§ 21.219 Transferability.

Special airworthiness certificates for provisionally type certificated aircraft may be transferred to an air carrier eligible to apply for a certificate under § 21.213(b).

§ 21.221 Issue of special airworthiness certificates for provisionally type certificated aircraft.

(a) Except as provided in § 21.225, an applicant is entitled to a special airworthiness certificate for an aircraft for which a provisional type certificate has been issued if—

(1) He meets the eligibility requirements of § 21.213 and he complies with this section; and

(2) The Administrator finds that there is no feature, characteristic, or condition of the aircraft that would make the aircraft unsafe when operated in accordance with the limitations established in §§ 21.83(g), 91.41, and 121.207 of this chapter.

(b) The applicant must show that a provisional type certificate for the aircraft has been issued to the manufacturer.

(c) The applicant must submit a statement by the manufacturer that the aircraft has been manufactured under a quality control system adequate to ensure that the aircraft conforms to the type design corresponding with the provisional type certificate.

(d) The applicant must submit a statement that the aircraft has been found by him to be in a safe operating condition under the applicable limitations.

(e) The aircraft must be flown at least 5 hours by the manufacturer.

(f) The aircraft must be supplied with a provisional aircraft flight manual containing the limitations established by §§ 21.83(g), 91.41, and 121.207 of this chapter.

§ 21.223 Special airworthiness certificates corresponding with provisional amendments to type certificates.

(a) An applicant is entitled to a special airworthiness certificate for an aircraft for which a provisional amendment to the type certificate has been issued, if—

(1) He meets the eligibility requirements of § 21.213 and he complies with this section; and

(2) The Administrator finds that there is no feature, characteristic, or condition of the aircraft, as modified in accordance with the provisionally amended type certificate, that would make the aircraft unsafe when operated in accordance with the applicable limitations established in §§ 21.85(f), 91.41, and 121.207 of this chapter.

(b) The applicant must show that the modification was made under a quality control system adequate to ensure that the modification conforms to the provisionally amended type certificate.

(c) The applicant must submit a statement that the aircraft has been

found by him to be in a safe operating condition under the applicable limitations.

(d) The aircraft must be flown at least 5 hours by the manufacturer.

(e) The aircraft must be supplied with a provisional aircraft flight manual or other document and appropriate placards containing the limitations required by §§ 21.85(f), 91.41, and 121.207 of this chapter.

6. By amending § 45.23(c) and by adding a new paragraph (d) to read as follows:

§ 45.23 Display of marks; general.

* * * * *

(c) When marks that include only the Roman capital letter "N" and the registration number are displayed on limited, or restricted, or experimental, or provisionally certificated aircraft that have not been issued special airworthiness certificates, the operator shall also display on that aircraft near each entrance to the cabin or cockpit, in letters not less than 2 inches nor more than 6 inches in height, the words "limited", "restricted", "experimental", or "provisional airworthiness", as the case may be.

(d) When marks that include only the Roman capital letter "N" and the registration number are displayed on aircraft issued special airworthiness certificates, except aircraft used for ferry flights, the operator shall display on that aircraft near each entrance to the cabin or cockpit, in letters not less than 2 nor more than 6 inches in height, the word "special".

7. By amending paragraph (a)(1) of § 91.27 to read as follows:

§ 91.27 Civil aircraft certificates required.

(a) * * *

(1) An appropriate and current airworthiness certificate (including an authorization under § 91.45); and

* * * * *

8. By amending § 91.39 to read as follows:

§ 91.39 Operating limitations for aircraft having special airworthiness certificates; general.

(a) No person may operate an aircraft that has a special airworthiness certificate except for the purpose for which the certificate was issued.

(b) No person may operate an aircraft that has a special airworthiness certificate, carrying persons or property for compensation or hire. For the purposes of § 91.41, a special purpose operation such as crop dusting, seeding, spraying, and banner towing (including the carrying of required persons and materials to the location of the operation) is not considered to be the carrying of persons or property for compensation or hire.

(c) No person may operate an aircraft that has a special airworthiness certificate—

(1) Over any foreign country without the special permission of that country; and

(2) Contrary to any other operating limitations and conditions prescribed by the Administrator.

9. By amending § 91.40 to read as follows:

§ 91.40 Operating limitations for aircraft having special airworthiness certificates; experimental purposes.

(a) No person may operate an aircraft that has a special airworthiness certificate issued for an experimental purpose outside an area approved by the Administrator until it is shown that—

(1) The aircraft is controllable throughout its normal range of speeds and throughout all the maneuvers to be executed; and

(2) The aircraft has no hazardous operating characteristics or design features.

(b) No person may be carried on an aircraft that has a special airworthiness certificate issued for an experimental purpose unless he performs an essential function in connection with the experimental purpose of the flight.

(c) Each person operating a civil aircraft that has a special airworthiness certificate issued for an experimental purpose shall—

(1) Advise each person carried of the experimental nature of the aircraft;

(2) Operate under VFR, day only, unless otherwise specifically authorized by the Administrator; and

(3) Operate under the requirements of § 91.93 when flight testing.

(d) No person may operate a civil aircraft that has a special airworthiness certificate issued for an experimental purpose—

(1) Over a densely populated area;

(2) In a congested airway; or

(3) Into or out of controlled airports unless he has notified the control tower of the experimental nature of the aircraft.

10. By amending § 91.41 to read as follows:

§ 91.41 Operating limitations for amateur-built aircraft having special type and airworthiness certificates.

Each person operating an amateur-built aircraft that has a special type and airworthiness certificate shall—

(a) Advise each person carried of the special airworthiness status of the aircraft; and

(b) Operate the aircraft only under VFR, day only, unless otherwise specifically authorized by the Administrator.

11. By adding a new § 91.42 to read as follows:

§ 91.42 Operating limitations for aircraft having special airworthiness certificates; restricted category aircraft.

(a) No person may operate a civil aircraft that has a special airworthiness certificate issued on the basis of a restricted category type certificate—

(1) For other than the special purpose for which it is certificated; or

(2) In an operation other than one necessary for the accomplishment of the work activity directly associated with that special purpose.

(b) No person may be carried on an aircraft that has a special airworthiness certificate issued on the basis of a restricted category type certificate unless—

(1) He is a flight crewmember;

(2) He is a flight crewmember trainee;

(3) He performs an essential function in connection with a special purpose operation for which the aircraft is certificated; or

(4) He is necessary for the accomplishment of the work activity directly associated with that special purpose.

(c) Except when operating in accordance with the terms and conditions of a certificate of waiver or special operating limitations issued by the Administrator, no person may operate a restricted category civil aircraft—

(1) Over a densely populated area;

(2) In a congested airway; or

(3) Near a busy airport where passenger transport operations are conducted.

(d) An application for a certificate of waiver under this section is made on a form and in a manner prescribed by the Administrator and must be submitted to the Flight Standards District Office having jurisdiction over the area in which the applicant is located.

§ 91.44 [Redesignated]

12. By redesignating present § 91.43 as § 91.44 and by adding a new § 91.43 to read as follows:

§ 91.43 Operating limitations for aircraft having special airworthiness certificates; provisionally certificated aircraft.

(a) No person may operate a civil aircraft that has a special airworthiness certificate, issued on the basis of a provisional type certificate—

(1) Unless he is eligible for a special airworthiness certificate under § 21.213 of this chapter;

(2) Outside of the United States unless he has specific authority to do so from the Administrator and each foreign country involved;

(3) In air transportation, unless otherwise authorized by the Director, Flight Standards Service; or

(4) Except in compliance with the approved procedures established under paragraph (c)(5) of this section.

(b) Unless otherwise authorized by the Administrator, no person may operate a civil aircraft that has a special airworthiness certificate issued on the basis of a provisional type certificate except—

(1) In direct conjunction with the type or supplemental type certification of that aircraft;

(2) For training flight crews, including simulated air carrier operations;

(3) For demonstration flights by the manufacturer for prospective purchasers;

(4) For market surveys by the manufacturer;

(5) For flight checking of instruments, accessories, and equipment, that do not

affect the basic airworthiness of the aircraft; or

(6) For service testing of the aircraft.

(c) Each person operating a civil aircraft that has a special airworthiness certificate issued on the basis of a provisional type certificate shall—

(1) Advise each person carried that the aircraft is provisionally certificated;

(2) Operate within the prescribed limitations displayed in the aircraft or set forth in the provisional aircraft flight manual or other appropriate document. However, when operating in direct conjunction with the type or supplemental type certification of the aircraft, he shall operate under the limitations prescribed by the Administrator for aircraft being used for that purpose under § 91.39;

(3) Operate under the requirements of § 91.93 when flight-testing;

(4) Establish approved procedures for the use and guidance of flight and ground personnel in operating under this section and for operating in and out of airports where takeoffs or approaches over populated areas are necessary;

(5) Ensure that each flight crewmember is properly certificated and has adequate knowledge of, and familiarity with, the aircraft and procedures to be used by that crewmember; and

(6) Maintain it as required by applicable regulations and as may be specially prescribed by the Administrator.

(d) No person may be carried on a civil aircraft that has a special airworthiness certificate issued on the basis of a provisional type certificate unless he has a proper interest in the operations allowed by this section or is specifically authorized by both the manufacturer and the Administrator.

(e) Whenever the manufacturer or the Administrator determines that a change in design, construction, or operation is necessary to ensure safe operation, no person may operate a civil aircraft that has a special airworthiness certificate issued on the basis of a provisional type certificate until that change has been made and approved. Section 21.99 of this chapter applies to this paragraph.

(f) The Administrator may prescribe additional limitations or procedures that he considers necessary, including limitations on the number of persons who may be carried in the aircraft.

This proposal is made under the authority of sections 313(a), 601, 603, 608, and 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1423, 1428, and 1429).

Issued in Washington, D.C., on June 27, 1966.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 66-7259; Filed, July 1, 1966; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-SO-50]

CONTROL ZONE AND TRANSITION AREA

Alteration

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Selma, Ala., control zone and transition area.

The Selma, Ala., control zone is described in § 71.171 (31 F.R. 2065).

The Selma control zone would be amended by adding the following:

Within 2 miles each side of the Selma TACAN 153° radial extending from the 5-mile radius zone to 5.5 miles SE of the TACAN; within 2 miles each side of the Selma TACAN 316° radial extending from the 5-mile radius zone to 6 miles NW of the TACAN.

Additional instrument approach procedures, utilizing the Selma TACAN 153° and 316° radials, are planned for Craig AFB.

The proposed amendment will provide a small amount of additional controlled airspace required for the protection of aircraft executing the planned instrument approach procedures during descent below 1,000 feet above the surface.

The Selma, Ala., transition area is described in § 71.181 (31 F.R. 2149).

The Selma, Ala., transition area would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Craig AFB (latitude 32°20'31" N., longitude 86°59'32" W.); within a 5-mile radius of Selfield Airport (latitude 32°26'28" N., longitude 86°57'05" W.); within 8 miles each side of the Craig AFB ILS localizer SE course extending from the AFB to 12 miles SE of the OM; within 2 miles each side of the Selma TACAN 316° radial extending from the 9-mile radius area to 12 miles NW of the TACAN.

The proposed amendment will provide additional controlled airspace required for the protection of aircraft departing Craig AFB during climb from 700 to 1,200 feet above the surface and for aircraft executing the planned instrument approach procedures during descent from 1,500 to 1,000 feet above the surface.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Memphis Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Agency, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Air Traffic Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Agency, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on June 24, 1966.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 66-7260; Filed, July 1, 1966; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order No. 2882, Amdt. No. 2]

CONGRESS OF MICRONESIA, TRUST TERRITORY OF PACIFIC ISLANDS

Legislative Authority

Whereas, on September 28, 1964, the Secretary of the Interior promulgated Secretarial Order No. 2882 creating the Congress of Micronesia and granting legislative authority thereto; and

Whereas, section 24 of the said Order 2882 provides that the Congress may recommend amendments to the Secretary of the Interior by a two-thirds majority vote of the membership of each House; and

Whereas, the Congress of Micronesia adopted Resolution No. 1–18 requesting that the "House of Delegates" be redesignated "Senate" and the "General Assembly" be redesignated "House of Representatives"; and

Whereas, revision of section 23 of the said Order No. 2882 is also desirable to clarify provisions relating to the compensation of the Legislative Counsel;

Now, therefore, Secretarial Order No. 2882 is amended in the following particulars, the amendments to become effective July 1, 1966:

1. Beginning July 1, 1966, the House of Delegates is redesignated the Senate and the General Assembly is redesignated the House of Representatives and wherever they appear in Order No. 2882 and Amendment No. 1 to Order No. 2882, the words "House of Delegates" and "General Assembly" shall be read as "Senate" and "House of Representatives", respectively, and the words "Delegates" and "Assemblymen" shall be read as "Senators" and "Representatives", respectively. This amendment shall not be so construed as to affect the seniority of any member of the Congress of Micronesia nor otherwise to affect the organization of the Congress of Micronesia.

2. Section 23 of the said Order No. 2882, as amended, is hereby amended to read as follows:

SECTION 23. *Legislative Counsel.* The Congress of Micronesia may by joint resolution nominate a legislative counsel of its own choosing to serve the Congress during and between sessions, subject only to the High Commissioner's concurrence in the competency of the designated legislative counsel. Salary for the Legislative Counsel shall be budgeted by the High Commissioner at a level comparable to the United States GS 12 level including those periodic step increases which would be available if the position were in fact a GS 12 position. Personnel benefits for the legislative counsel, including, but not necessarily limited to, annual and sick leave, shall be provided by the Congress of Micronesia: *Provided,* That such personnel benefits do not exceed those provided United States Government employees in the Trust Territory. The Congress of Micronesia may make budgetary provision for such supporting staff for the legislative counsel and the legislature as it may deem necessary.

Prepared for publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

JUNE 28, 1966.

[F.R. Doc. 66–7275; Filed, July 1, 1966; 8:46 a.m.]

Office of the Solicitor

ATTORNEY CONTRACT WITH INDIAN TRIBES

Fees and Expenses

JUNE 22, 1966.

Solicitor's Regulation 12 of February 17, 1960 (25 F.R. 1601), authorizing Regional and Field Solicitors to determine and approve for payment fees and expenses under attorney contracts with Indian Tribes is no longer in effect. Authority heretofore delegated to the Solicitor to approve such payments was transferred to the Commissioner of Indian Affairs (27 F.R. 11560).

FRANK J. BARRY,
Solicitor.

[F.R. Doc. 66–7274; Filed, July 1, 1966; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

UPLAND AND EXTRA LONG STAPLE COTTON

Notice of Determinations Regarding 1967 Crops

The Secretary of Agriculture is preparing to make determinations with respect to the 1967 crops of upland cotton and extra long staple cotton pursuant to the Agricultural Adjustment Act of 1938, as amended (referred to as the "act") (52 Stat. 38, as amended; 7 U.S.C. 1281 et seq.). The Secretary is preparing to make these determinations for upland cotton in July 1966. These determinations include the following:

(a) *Upland cotton.* (1) Whether a national marketing quota is required to be proclaimed for the 1967 crop of upland cotton under section 342 of the act;

(2) The number of bales of cotton of the national marketing quota under section 342 of the act;

(3) The national acreage allotment under section 344(a) of the act;

(4) The national reserve for minimum farm allotments under section 344(b) of the act;

(5) The apportionment of the national allotment and national reserve to the States and counties under section 344 (b) and (e) of the act;

(6) The national domestic allotment and farm domestic allotment percentage under section 350 of the act;

(7) The projected national, State and county yields under section 301(b)(13)(L) of the act;

(8) The national export market acreage reserve under section 346 of the act;

(9) The date for holding the national marketing quota referendum under section 343 of the act.

(b) *Extra long staple cotton.* (1) Whether a national marketing quota is required to be proclaimed for the 1967 crop of extra long staple cotton under section 347 of the act;

(2) The number of bales of extra long staple cotton of the national marketing quota under section 347 of the act;

(3) The national acreage allotment under section 344(a) of the act;

(4) The apportionment of the national allotment to the States and counties under section 344 (b) and (e) of the act;

(5) The date for holding the national marketing quota referendum under section 343 of the act.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250, within 15 days following the publication of this notice in the FEDERAL REGISTER. The date of the postmark will be considered as the date of any submission. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Effective date. Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 28, 1966.

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

[F.R. Doc. 66–7277; Filed, July 1, 1966; 8:47 a.m.]

Office of the Secretary

FLORIDA

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Con-

solidated 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 Florida a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

FLORIDA

Gadsden.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1967, 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 28th day of June 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-7281; Filed, July 1, 1966; 8:47 a.m.]

NEBRASKA

Extension of 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 Nebraska natural disasters have caused a continuing need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Nebraska	Original designation	Present extension
Antelope	29 F.R. 14993	30 F.R. 7616.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1967, 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 28th day of June 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-7282; Filed, July 1, 1966; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 357]

HI-GRADE IMPORT-EXPORT AND JACK MASSENGALE

Default Order Denying Export Privileges

In the matter of Hi-Grade Import-Export, 123 East Sixth Street, Suite 201, Cincinnati 2, Ohio; Jack Massengale, 5510 Eastwood Drive, Cincinnati, Ohio; Respondents; Case No. 357.

By charging letter dated April 22, 1966, the Director, Investigations Division, Office of Export Control, Bureau of International Commerce, charged the above-named respondents with violations of the Export Control Act of 1949 and regulations thereunder. The respondents were served with a charging letter and they have not responded or filed an answer, and in accordance with § 382.4 of the regulations, they are held to be in default.

In accordance with the usual practice the case was referred to the Compliance Commissioner. He held an informal hearing on June 14, 1966, at which time counsel for the Investigations Division presented evidence in support of the charges.

It was charged in substance that the respondents had knowingly grossly overstated the amount of walnut logs exported by the respondent Hi-Grade during the years 1961, 1962, and 1963, in order to obtain authorization to export more walnut logs (under the short supply regulations of this commodity) than would have been authorized if they had correctly stated the amount exported in this period.

The Compliance Commissioner has reported the findings of fact and findings that violations have occurred and has recommended that sanctions as hereinafter set forth be imposed.

After considering the record in the case and the recommendation of the Compliance Commissioner, I hereby make the following findings of fact:

1. The respondent, Hi-Grade Import-Export Co., during the period here material, was engaged in certain import activities and also in exporting walnut logs to certain European companies. Frank B. Ottle of Cincinnati, Ohio, was the owner of said firm. The respondent, Jack Massengale, is a nephew of said Ottle and was employed by him in the operations of Hi-Grade. Massengale handled the transactions hereinafter set forth for the respondent Hi-Grade.

2. On February 14, 1964, the Department of Commerce imposed short supply controls over the export of walnut logs. Pursuant to Current Export Bulletin 888, dated February 14, 1964, and § 373.29 of the Export Regulations, applicants for validated licenses to export walnut logs for the licensing period February 14 to June 30, 1964, were required to submit, prior to or together with their initial license application, statements showing their exports of walnut logs to different countries in the base period, i.e., the years 1961, 1962, and 1963. Following receipt of these statements and in response to specific license application made by or on behalf of each base period exporter, the Office of Export Control issued to each of the respective applicants validated licenses for export of walnut logs to particular countries up to a certain quota which was based upon percentage of their exports during the base period.

3. In March 1964 the respondent Jack Massengale, acting on behalf of respondent Hi-Grade, represented to the Office of Export Control that during the base period 1961, 1962, and 1963, the firm had exported from the United States approximately 900,000 board feet of walnut logs, most of which were sent to Switzerland. The Office of Export Control placed substantial reliance on this representation and issued a validated license authorizing Hi-Grade to export 30,400 board feet of walnut logs to Switzerland.

4. The quantity of walnut logs exported by Hi-Grade during the base period was not the represented 900,000 board feet but was in fact approximately 45,000 board feet. On the basis of the actual exportations during the base period Hi-Grade would have been entitled to receive a license authorizing it to export substantially less walnut logs than that authorized under the license which was issued.

5. The respondents knew or had reason to know, that the representation made to the Office of Export Control concerning the quantity of walnut logs exported from the United States during the prescribed base period was false and misleading and that the quantity of walnut logs actually exported during the base period was substantially less than represented.

Based on the foregoing it is concluded that the respondents violated § 381.5 of the Export Regulations and that they made and caused to be made false representations to, and concealed material facts from, the Office of Export Control, U.S. Department of Commerce, regarding their base period exportations of walnut logs for the purpose of obtaining a larger share of the walnut logs export quota than they would have been entitled under § 373.29 of the Export Regulations.

Having considered the record in the case and the recommendation of the Compliance Commissioner as to the sanction that should be imposed and having concluded that the recommendation is fair and just and calculated to achieve effective enforcement of the law: *It is hereby ordered,*

I. All outstanding export licenses in which the respondents appear or participate in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. Except as qualified in Part IV hereof, the respondents for a period of 3 years are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction either in the United States or abroad shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or re-

exportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the named respondents, but also to their representatives, agents, partners, and employees, including Frank B. Ottle, owner of Hi-Grade Import-Export, and also to any person, firm, corporation, or other business organization with which respondents now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. One year after the effective date hereof, without further order of the Bureau of International Commerce, the respondents shall have their export privileges restored conditionally and thereafter for the remainder of the 3-year denial period the respondents shall be on probation. The conditions of such restoration are that the respondents shall fully comply with all requirements of the Export Control Act of 1949, as amended, and all regulations, licenses, and orders issued thereunder.

V. Upon a finding by the Director, Office of Export Control, or such other official as may be exercising the duties now exercised by him, that the respondents have knowingly failed to comply with the requirements and conditions of this order or with the conditions of probation, said official at any time, with or without prior notice to said respondents, by supplemental order, may revoke the probation of said respondents, revoke all outstanding validated export licenses to which said respondents may be a party, and deny to said respondents all export privileges for a period up to 2 years. Such order shall not preclude the Bureau of International Commerce from taking further action for any violation as shall be warranted. On the entry of a supplemental order revoking respondents' probation without notice, they may file objections and request that such order be set aside, and may request an oral hearing, as provided in section 382.16 of the Export Regulations, but pending such further proceedings, the order of revocation shall remain in effect.

VI. During the time when the respondents or other persons within the scope of this order are prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with the respondents or other persons denied export privileges within the scope of this order, or whereby the respondents or such other persons may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for the respondents or other persons denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

This order shall become effective June 30, 1966.

Dated: June 27, 1966.

SHERMAN R. ABRAHAMSON,
Acting Director,
Office of Export Control.

[F.R. Doc. 66-7286; Filed, July 1, 1966; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

A. E. STALEY MANUFACTURING CO.

Filing of Petition for Food Additive Poloxalene

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by A. E. Staley Manufacturing Co., 2200 East Eldorado Street, Decatur, Ill. 62521, proposing the issuance of a regulation to provide for the safe use of a poloxalene molasses block for the prevention of legume (alfalfa, clover) bloat in cattle.

Dated: June 28, 1966.

J. K. KIRK,
Assistant Commissioner,
for Operations.

[F.R. Doc. 66-7292; Filed, July 1, 1966; 8:48 a.m.]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization and Delegations of Authority

Part 8 of the Statement of Organization and Delegations of Authority of the Department (22 F.R. 1050), as amended, is amended by revising section 8.10 to read as follows:

SEC. 8.10. *Organization.* (a) The Social Security Administration, which is under the supervision and direction of the Commissioner of Social Security, consists of:

- Office of the Commissioner
  - Immediate Office of the Commissioner
  - Office of the Assistant Commissioner, Field Community Planning Staff
  - Office of the Regional Assistant Commissioner
- Office of the Actuary
- Office of Administration
  - Office of the Assistant Commissioner
  - Employee Management Relations and Equal Employment Opportunity Staff
  - Management Coordination and Special Projects Staff
  - Division of Administrative Appraisal and Planning
  - Division of Audits and Investigations
  - Division of Employee Development
  - Division of Financial Management
  - Division of Operating Facilities
  - Division of Personnel
  - Division of Systems Coordination and Planning
  - Employee Health Service
  - SSA Employee Communications Staff
  - SSA Operations Research Staff
- Office of Information
  - Office of the Information Officer
  - Operations Branch
  - Production Branch
  - Public Inquiries Branch
- Office of Program Evaluation and Planning
  - Office of the Assistant Commissioner
  - Division of Coverage and Disability Benefits
  - Division of Health Insurance
  - Division of Retirement and Survivors Benefits
- Office of Research and Statistics
  - Office of the Assistant Commissioner
    - International Staff
    - Publications Staff
    - Research Grants Staff
  - Division of Economic and Social Surveys
  - Division of Health Insurance Studies
  - Division of Program and Long-Range Studies
  - Division of Statistics
- Bureau of Data Processing and Accounts
  - Office of the Bureau Director
  - Division of Accounts and Adjustments
  - Division of Central EDP Operations
  - Division of Certification
  - Division of Management Coordination
  - Division of Methods and EDP Systems
  - Division of Registration
  - Division of Report Processing
  - Division of Statistical Services
- Bureau of Disability Insurance
  - Office of the Bureau Director
  - Medical Consultant Staff
  - Division of Benefit Services
  - Division of Disability Policy and Procedures
  - Division of Evaluation and Authorization
  - Division of Management and Appraisal
  - Division of Reconsideration
  - Division of State Disability Operations
  - Office of the Regional Representative, Disability Insurance
- Bureau of District Office Operations
  - Office of the Bureau Director
    - Operations Analysis and Standards Staff
  - Division of Field Operations and Management
  - Division of Field Organization and Methods
  - Division of Operating Policy and Procedure
  - Office of the Regional Representative, District Office Operations
- Bureau of Federal Credit Unions
  - Office of the Bureau Director
  - Division of Administration
  - Division of Examination and Accounting
  - Division of Organization and Standards
  - Division of Statistical Research and Analysis

Office of the Regional Representative, Federal Credit Unions
Bureau of Health Insurance
Office of the Bureau Director
Office of the Chief Medical Officer
Division of Health Insurance Methods and Procedures
Division of Health Insurance Policy and Standards
Division of Health Insurance Reimbursement
Division of Insurance Operations
Division of Management
Division of State Operations
Office of the Regional Representative, Health Insurance
Bureau of Hearings and Appeals
Office of the Bureau Director
Appeals Council
Medical Advisory Staff
Division of Administration
Division of Field Operations
Office of the Regional Hearings Representative
Division of Program Operations
Bureau of Retirement and Survivors Insurance
Office of the Bureau Director
Division of Administrative Review
Division of Appraisal Systems
Division of Benefit Continuity
Division of Coverage
Division of Entitlement
Division of Foreign Claims
Division of Management
Division of Operations
Division of Technical Services
Office of the Regional Representative, Retirement and Survivors Insurance

(Sec. 6, Reorganization Plan No. 1 of 1953)

Approved: June 28, 1966.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 66-7295; Filed, July 1, 1966; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

HOUSING ASSISTANCE ADMINISTRATION AND RENEWAL PROJECTS ADMINISTRATION

Designation of Acting Officials To Serve During Present Vacancies and Order of Precedence To Serve as Acting Officials

A. *Designation of Acting Officials To Serve During Present Vacancies.* Each official named below is hereby designated to serve in an acting capacity during the present vacancy in the position indicated, with all the power and authority delegated or assigned to such position:

1. Deputy Assistant Secretary for Housing Assistance: Marie C. McGuire.
2. General Deputy, Housing Assistance Administration: Francis X. Servaites.
3. Deputy Assistant Secretary for Renewal: Howard J. Wharton.
4. General Deputy, Renewal Projects Administration: Howard J. Wharton.
5. Director, Office of Urban Neighborhood Services: Howard J. Wharton.

B. *Order of Precedence To Serve as Acting Officials.* The following officials (but not anyone acting in their stead) are hereby designated to serve in an acting capacity in the positions of Deputy Assistant Secretary for Housing Assistance, Deputy Assistant Secretary for Renewal, and Director, Office of Urban Neighborhood Services, respectively, during the absence of the official in, or designated in A above to act in, the position, with all the power and authority delegated to or assigned to such position, provided that no official is authorized to serve in such capacity unless all other officials whose titles precede his in the appropriate list are unable to act by reason of absence:

1. Position of Deputy Assistant Secretary for Housing Assistance:
   a. Acting General Deputy, Housing Assistance Administration.
   b. General Counsel, Housing Assistance Administration.
   c. Director, Management Division, Housing Assistance Administration.
   d. Director, Administration Division, Housing Assistance Administration.
2. Position of Deputy Assistant Secretary for Renewal:
   a. Acting General Deputy, Renewal Projects Administration.
   b. Chief Counsel, Renewal Projects Administration.
   c. Director, Office of Program Planning, Renewal Projects Administration.
3. Position of Director, Office of Urban Neighborhood Services:
   a. Acting General Deputy, Renewal Projects Administration.
   b. Chief Counsel, Renewal Projects Administration.
   c. Director, Office of Program Planning, Renewal Projects Administration.

Effective July 1, 1966.

DON HUMMEL,
Assistant Secretary for Renewal and Housing Assistance.

[F.R. Doc. 66-7307; Filed, July 1, 1966; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

SACRAMENTO-YOLO PORT DISTRICT AND CARGILL OF CALIF., INC.

Notice of Agreements Filed for Approval

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

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; 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:

Melvin Shore, Port Director, Port of Sacramento, Post Office Box 815, West Sacramento, Calif. 95691

Agreement No. T-21-1 between Sacramento-Yolo Port District (District) and Cargill of California, Inc., modifies the basic agreement which provides for the lease of a grain terminal facility at Sacramento, Calif. The purpose of the modification is to (1) increase the rental for the first five (5) year period; (2) increase the required minimum tonnage for the first five (5) year period; (3) provide for the payment to the District of a percentage of the Service and Facilities Charge; and (4) consolidate and cancel certain agreements between the parties.

By order of the Federal Maritime Commission.

Dated: June 29, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-7298; Filed, July 1, 1966; 8:48 a.m.]

SEA-LAND SERVICE, INC., AND CITY OF ANCHORAGE

Notice of Agreements Filed for Approval

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

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; 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 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

J. Scot Provan, Terminal & Fleet Streets, Post Office Box 1050, Elizabeth, N.J. 07207.

Agreement No. T-1685-3 between the City of Anchorage (City) and Sea-Land Service, Inc. (Sea-Land), modifies the basic agreement which provides for the lease and preferential use of berth space and transit shed at Anchorage, Alaska. The purpose of the modification is to provide for the installation and preferential

use of a 27½-ton container crane by Sea-Land at Anchorage, Alaska, at an annual fee of 9 percent of the crane cost. Title to the crane will be vested in the City who retains the right and option for secondary use when such use will not unreasonably interfere with Sea-Land's operations.

By order of the Federal Maritime Commission.

Dated: June 29, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-7299; Filed, July 1, 1966; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP61-163]

ARKANSAS LOUISIANA GAS CO.

Notice of Petition To Amend

JUNE 27, 1966.

Take notice that on June 17, 1966, Arkansas Louisiana Gas Co. (Petitioner), Post Office Box 1126, Shreveport, La. 71102, filed in Docket No. CP61-163 a petition to amend the order issued in Docket Nos. CP61-143, CP61-149, and CP61-163 (CP61-143, et al.) on January 3, 1963, and amended on December 30, 1963, June 2, 1964, and May 25, 1965, requesting that authorization of Petitioner's purchase of gas from Colorado Interstate Gas Co. (Colorado) be extended to 12:01 a.m., May 1, 1967, that the daily average deliveries of gas pursuant to the subject order be increased to 18,000 Mcf, that the daily minimum deliveries be increased to 10,000 Mcf, and that the sales price be increased to 18 cents per Mcf for all gas delivered after May 1, 1966, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order of the Commission issued in the instant proceeding on January 3, 1963, as amended, a transaction was authorized by which gas sold by Colorado to Petitioner was to be delivered by Colorado to Natural Gas Pipeline Company of America (Natural) in exchange for gas delivered by Natural to Petitioner, said transaction having terminated under present authorization at 12:01 a.m., May 1, 1966.

Petitioner states that the three parties concerned have now amended their contracts to extend the transaction for another year and to increase the daily average and daily minimum deliveries, and to increase the sales price.

Petitioner states that the purpose of the instant filing is to amend its certificate, as heretofore amended, in Docket No. CP61-163:

(1) To extend the term of Petitioner's authorization to 12:01 a.m., May 1, 1967,

(2) To increase during the period September 1, 1966, through April 30, 1967, the daily average deliveries from 10,000 Mcf to 18,000 Mcf,

(3) To increase during the period September 1, 1966, through April 30, 1967, the daily minimum deliveries from 8,000 Mcf to 10,000 Mcf, and

(4) To increase the price of all gas delivered after April 30, 1966, from 14.5 cents to 18.0 cents per Mcf.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before July 25, 1966.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66-7261; Filed, July 1, 1966; 8:45 a.m.]

[Docket No. CP66-421]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

JUNE 27, 1966.

Take notice that on June 20, 1966, Arkansas Louisiana Gas Co. (Applicant), Slattery Building, Shreveport, La., filed in Docket No. CP66-421 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate a new market lateral pipeline extending from its existing transmission facilities to a new plant constructed by Western Electric Co. located near Shreveport, Caddo Parish, La. The proposed facilities consist of approximately 26,400 feet of 8⅝-inch pipeline.

Applicant states that Western Electric Co. will use up to 2,880 Mcf of gas per day and approximately 400,000 Mcf of gas per year.

The total estimated cost of Applicant's proposed construction is $153,140, which will be financed from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before July 22, 1966.

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

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

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66-7262; Filed, July 1, 1966; 8:45 a.m.]

[Docket No. CP66-422]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

JUNE 27, 1966.

Take notice that on June 21, 1966, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP66-422 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of the facilities of Chicago District Pipeline Co. (Chicago District), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The facilities of Chicago District proposed to be acquired by Applicant are as follows:

TRANSMISSION LINES

(1) a total of 1.28 miles of 24-inch and 36-inch pipelines between Applicant's metering station near Joliet and the "Junction Tee" of the Crawford and Calumet pipelines of Chicago District, in and through Will County, Ill.,

(2) dual pipelines consisting of 35.24 miles of 24-inch pipeline and 35.44 miles of 30-inch and 36-inch pipeline and 31.28 miles of 24-inch pipeline paralleling and partially looping the above mentioned pipelines, between said "Junction Tee" and the city limits of Chicago, in and through Will, DuPage, and Cook Counties, Ill.,

(3) 84.89 miles of dual 24-inch pipelines between said "Junction Tee" and the city limits of Chicago, in and through Will and Cook Counties, Ill.,

(4) 50.70 miles of 36-inch pipeline between Applicant's metering and regulating station near Minooka, Ill., and the city limits of Chicago, in and through Will and Cook Counties, Ill.,

(5) 12.09 miles of 30-inch and 14.36 miles of 36-inch pipeline between Applicant's metering and regulating station near Streamwood, Ill. and the city limits of Chicago, in and through Cook County, Ill.,

(6) a total of 8.57 miles of lateral pipelines, varying in sizes from 12-inch to 30-inch pipeline, located in Cook County, Ill., and

(7) leasehold interests in certain pipelines and other facilities located within the City of Chicago and operated by Chicago District under lease agreements with The Peoples Gas Light and Coke Co. (Peoples Gas).

METERING AND REGULATING FACILITIES

A total of 37 metering and/or regulating stations and appurtenant facilities located at various points on Chicago District's pipeline system.

The application states that Peoples Gas owns all of the outstanding common stock of Applicant and Chicago District and that Peoples Gas, as the sole stockholder of Chicago District, will authorize the sale and transfer of all the assets of Chicago District to Applicant in exchange for shares of the common stock of Applicant. The application further states that Chicago District will then be dissolved and liquidated and will transfer and distribute to Peoples Gas all its assets and property, then consisting of the shares of the common stock of Applicant. Applicant states that after the proposed acquisition of Chicago District's facilities, Peoples Gas will own all of the outstanding common stock of Applicant, the surviving company.

The application states that no abandonment of service will result from the proposed reorganization and that Applicant will render all of the services now rendered by Chicago District in accordance with a proposed new rate schedule.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before July 25, 1966.

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

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

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66-7263; Filed, July 1, 1966; 8:45 a.m.]

[Docket Nos. CP65-163, CP66-183]

PLAINS GAS FARMERS' COOPERATIVE SOCIETY ET AL.

Order Consolidating Proceedings, Granting Intervention and Fixing Dates for Prehearing Conference

JUNE 27, 1966.

Plains Gas Farmers' Cooperative Society of Hereford, Tex.; Transwestern Pipeline Company, Respondent; CP65-163; Tri-County Gas Co., Inc.; El Paso Natural Gas Company, Respondent; CP66-183.

On February 16, 1965, the Commission issued an order in the proceeding entitled Plains Gas Farmers' Cooperative Society of Hereford, Tex. (Plains) Docket No. CP65-163 in which it ordered Transwestern Pipeline Co. (Transwestern) to establish four connections of its natural gas transmission system with that of Plains and to sell and deliver natural gas in volumes of up to 36,130 Mcf per month to that organization for resale to its members. On October 29, 1965, Plains requested that the Commission amend the aforementioned order pursuant to section 7(a) of the Natural Gas Act by directing that Transwestern establish nine additional connections with the facilities of its members and that it be ordered to sell to it up to 768,550[1] Mcf of natural gas per year. Plains additionally requests that Transwestern be directed to provide it with peak monthly volumes of 181,210 Mcf, including the monthly quantity previously directed to be sold to Plains during months of peak consumption.

Plains seeks to purchase 181,210 Mcf per month in order to enable it to serve the irrigation wells it has presently connected to its system plus the 164 additional wells that it desires to serve. It estimates that it will require 145,080 Mcf per month in order to serve the 164 irrigation wells.

The cost of the taps, meters, and regulators will be borne by Plains and it estimates that the cost of the additional nine taps and the other equipment and facilities including meters and regulators will be approximately $35,000.

Plains further contends that Transwestern has sufficient available gas to meet its requirements and Transwestern has not indicated that it is opposed to selling the additional volumes to Plains that it is requesting herein.

On December 8, 1965, Tri-County Gas Co., Inc. (Tri-County), filed an application pursuant to section 7(a) of the Natural Gas Act requesting that the Commission issue an order directing El Paso Natural Gas Co. (El Paso) to establish physical connection of its natural gas transmission facilities with the facilities and to sell it certain specified company certain specified volumes of natural gas for resale.

Tri-County seeks to render natural gas service to certain irrigation farmers located in the vicinity of Lamb and Bailey Counties in Texas. Tri-County alleges that in the event El Paso is required to make physical connection with its facilities and to sel lit certain specified volumes of natural gas that the purchase price of natural gas to the irrigation farmers it seeks to serve could be reduced by one-third.

In its application Tri-County does not specify the number nor the locations of the conections that it desires El Paso be required to make with its facilities. It requests rather that the Commission issue "an order directing El Paso to establish a physical connection or such connections as may be necessary in order to tie on already existing gas lines owned by the farmers to be served by Tri-County." Tri-County evidently intends to service 124 irrigation wells and a number of residences that are presently served by Pioneer. In order to provide service to the aforementioned prospective customers Tri-County further requests that El Paso be required to provide it with an annual volume of 97,424 Mcf of natural gas and a monthly peaking volume of 18,946 Mcf.

Since the cost of individual meters are to be borne by the consumers of the gas, the only initial cost to be incurred by Tri-County will be in connection with the installation of a master meter. It is estimated that this cost will be in the neighborhood of $1,000.

Pioneer has already noted its opposition to the requests made by Plains and Tri-County. Transwestern evidently has no objection to serving Plains directly with the volumes of natural gas that it needs to meet the requirements of its prospective customers; however, El Paso has indicated that it will oppose the request made by Tri-County to the Commission for an order requiring El Paso to establish connection with its system at certain points.

In light of the common issues involved in the above-styled proceedings, the Commission is of the opinion that the consolidation for purposes of hearing of these proceedings would be in the public interest and that it would be beneficial to have a prehearing conference prior to commencement of the formal hearing.

On December 6, 1965 and January 7, 1966, respectively, Pioneer filed petitions seeking leave to intervene in both of the above-styled proceedings.

The Commission finds:

(1) It appears that the participation in these proceedings by Pioneer Natural Gas Co. may be in the public interest.

The Commission orders:

(A) Pioneer Natural Gas Co. is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however*, That the participation of Pioneer Natural Gas Co. shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene: and *Provided, further*, That the admission of Pioneer Natural Gas Co. shall not be construed as recognition by the Commission that it may be aggrieved by any order or orders entered in these proceedings.

(B) A prehearing conference be convened in the proceedings entitled Plains Gas Farmers' Cooperative Society of Hereford, Tex., et al., Docket Nos. CP65-163, et al., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, on July 14, 1966, at 10:00 a.m., e.d.s.t. The Chief Examiner will designate an appropriate officer of the Commission to preside

[1] This volume includes those volumes that the Commission has heretofore directed Transwestern to sell to Plains.

at the prehearing conference and at the formal hearing of these matters, pursuant to the Commission's rules of practice and procedure.

(C) The Presiding Examiner so designated in compliance with paragraph (B) above shall set an appropriate date for the filing of exhibits and testimony and a date on which the formal hearing will be scheduled to commence.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-7264; Filed, July 1, 1966; 8:46 a.m.]

[Project 2289]

ROCKY MOUNTAIN POWER CO.

Notice of Stay and Postponement of Hearing

JUNE 24, 1966.

The Commission has before it the Presiding Examiner's certification of the motions to dismiss the application for license, the joinders therein, and the responses thereto as well as the motion for enlargement of time;

Notice is hereby given that the requirement for submitting evidence by June 27, 1966, is hereby stayed and that the hearing presently fixed for July 6, 1966, is postponed until further order of the Commission.

By direction of the Commission.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-7265; Filed, July 1, 1966; 8:46 a.m.]

[Docket No. CP66-417]

ST. JOSEPH LIGHT & POWER CO. AND MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

JUNE 27, 1966.

Take notice that on June 16, 1966, St. Joseph Light & Power Co. (Applicant), 520 Francis Street, St. Joseph, Mo. 64502, filed in Docket No. CP66-417 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Co. (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in Craig, Mo., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Craig, Mo., is located approximately 8 miles from Mound City, Mo., and has a population of approximately 488. Applicant further states that there are 196 residences and 56 commercial establishments now located in Craig.

Applicant proposes to construct a new welded steel, coated and wrapped distribution system in Craig to provide natural gas service to the residences and commercial establishments of Craig for cooking, water heating, clothes drying, spaceheating, and other associated uses.

Applicant states that service to Craig will require approximately 660 feet of lateral construction, extending from Respondent's existing lateral pipeline to a proposed town border station. Applicant proposes that said lateral be constructed by Respondent pursuant to that Company's "10-cent formula."

The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for the initial 3-year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	15,200	18,600	21,900
Peak day (Mcf)	160	200	230

The total estimated cost of Applicant's proposed construction is $61,600, which cost will be financed by internally generated funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 20, 1966.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66-7266; Filed, July 1, 1966; 8:46 a.m.]

[Docket No. CP66-418]

TEXAS GAS PIPE LINE CORP.

Notice of Application

JUNE 24, 1966.

Take notice that on June 16, 1966, Texas Gas Pipe Line Corp. (Applicant), 3000 Richmond Avenue, Houston, Tex., filed in Docket No. CP66-418 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain natural gas facilities and the transportation and sale of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of the instant application is to realign the properties and services of Union Texas Petroleum, a division of Allied Chemical Corp. (Union Texas) and Applicant, so that Applicant will own and operate the pipeline transmission facilities required to make sales and deliveries in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) and Texas Eastern Transmission Corp. (Texas Eastern). Applicant proposes that Union Texas, an independent producer, retain facilities utilized in the gathering and processing of gas, and make deliveries to Applicant at the outlet of Union Texas's Winnie Plant and at other points on Applicant's pipeline in or near the North Port Neches Field in Orange County, Tex.

Applicant proposes to acquire, by assignment from Union Texas, those contracts under which gas is purchased for resale to Texas Eastern. Applicant also seeks authority to acquire pipeline facilities owned and operated by Union Texas for the purpose of transporting natural gas from the Winnie Plant to Texas Eastern and to Applicant, and to operate such facilities to enable Applicant to continue the sales to Texas Eastern and Transcontinental.

The facilities and contracts to be acquired by Applicant are stated to be:

(1) Approximately 30 miles of 10-inch and 12-inch transmission pipeline commencing at the outlet of the Winnie Plant and running in an easterly direction through Jefferson and Orange Counties in the State of Texas to a point of interconnection with the facilities of Applicant near North Port Neches, together with meters and other appurtenant facilities,

(2) Approximately 6 miles of 10-inch and 12-inch transmission pipeline commencing at the Winnie Plant and extending in a northerly direction to a connection with the facilities of Texas Eastern, together with meters and other appurtenant facilities,

(3) Dehydration facilities at the Winnie Plant and adjacent to Applicant's Orange Compressor Station, and

(4) Certain gas purchase contracts.

Applicant proposes to provide the service proposed by the instant application to Texas Eastern under a new Rate Schedule G-1. Applicant states that the rate of 17.8 cents per Mcf provided in such new rate schedule has been computed from its cost of purchased gas, the cost of gathering such gas, and the transmission cost attributable to such sale. Applicant further states that it will reduce its rates to reflect reductions in gas purchase costs resulting from settlements of the rates of producers selling to it.

The total estimated cost of acquiring the proposed facilities is $714,471, which cost will be financed from current working funds. Applicant proposes to record the acquired properties on its books at the original cost of $1,071,468.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before July 22, 1966.

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

Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

[F.R. Doc. 66-7267; Filed, July 1, 1966; 8:46 a.m.]

JOSEPH H. GUTRIDE,
Secretary.

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 29, 1966.

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. 40565—*Class and commodity rates from and to Industry, Ga.* Filed by O. W. South, Jr., agent (No. A4909), for interested rail carriers. Rates on property moving on class and commodity rates, between Industry, Ga., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New station and grouping.

FSA No. 40566—*Superphosphate from points in Florida.* Filed by O. W. South, Jr., agent (No. A4910), for interested rail cariers. Rates on superphosphate, not defluorinated superphosphate, nor feed grade superphosphate, in bulk, in carloads, from Bartow, Central, and Prairie, Fla., to specified points in Connecticut and Massachusetts, also Fox Point, R.I.

Grounds for relief—Rail-barge-truck competition.

Tariff—Supplement 5 to Southern Freight Association, agent, tariff ICC S-632.

AGGREGATE OF INTERMEDIATES

FSA No. 40567—*Superphosphate from points in Florida.* Filed by O. W. South, Jr., agent (No. A4911), for interested rail carriers. Rates on superphosphate, not defluorinated superphosphate, nor feed grade superphosphate, in bulk, in carloads, from points in Florida, to specified points in Connecticut and Massachusetts, also Fox Point, R.I.

Grounds for relief—Maintenance of depressed rates established to meet rail-water-truck competition without having to use such rates as factors in constructing combination rates.

Tariff—Supplement 5 to Southern Freight Association, agent, tariff I.C.C. S-632.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-7276; Filed, July 1, 1966; 8:46 a.m.]

[Notice 205]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 29, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 29079 (Sub-No. 31 TA), filed June 27, 1966. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union Street, Kokomo, Ind. 46901. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates*, when moving in connection with dies, (1) over regular routes: (a) Between Saginaw, Mich., and Detroit, Mich., over U.S. Highway 10, and return over the same route, serving all intermediate points, and (b) between Grand Rapids, Mich., and Detroit, Mich., over U.S. Highway 16, and return over the same route, serving the intermediate point of Lansing, Mich., and (2) over irregular routes: (a) From Detroit, Mich., to Chicago and Rockford, Ill., and points in Ohio and Indiana, (b) from points in Ohio, to Detroit, Mich., (c) from Toledo, Ohio, and Chicago, Ill., to Toledo and Cleveland, Ohio, and points in Michigan on and south of a line beginning at Ludington, Mich., and extending over U.S. Highway 10 to junction U.S. Business Route 10, thence over U.S. Business Route 10 to Midland, Mich., thence over Michigan Highway 20 to Saginaw River and thence over Saginaw River to Saginaw Bay, (d) between Warren, Youngstown, Akron, Marion, and Defiance, Ohio, on the one hand, and, on the other, Cleveland and Port Clinton, Ohio, Holland and Wyandotte, Mich., and points on U.S. Highways 24 and 25 between Toledo, Ohio, and Detroit, Mich., (e) from points in Ohio, except Toledo, to the site of the Ford Motor Co. plant, at or near the intersection of Mound Road and 17-Mile Road, Sterling Township, Macomb County, Mich., (f) between the site of the Ford Motor Co. plant at or near Chicago Heights, Ill., and points in Michigan, (g) from the plantsite of the Kelsey-Hayes Co., at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich., to Chicago and Rockford, Ill., and points in Ohio and Indiana; and (h) between Kokomo, Ind., and points within 50 miles of Kokomo on the one hand, and, on the other, Erie, Pa., for 180 days. Supporting shippers: Ford Motor Co., Dearborn, Mich.; Fisher Body Division of General Motors Corp., Detroit, Mich. Send protests to: Heber Dixon, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 35484 (Sub-No. 66 TA), filed June 27, 1966. Applicant: VIKING FREIGHT COMPANY, 1525 South Broadway, St. Louis, Mo. 63104. Applicant's representative: G. M. Rebman, Suite 1230, Boatmen's Bank Building, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the new St. Regis Paper Co., Ferguson Mill near Monticello, Miss., as an off-route point in connection with applicant's regular route between Louisiana-Mississippi State line and Jackson, Miss., and all other routes authorized in MC 35484, for 180 days. Supporting shipper: St. Regis Paper Co., attention Michael J. Walsh, Jr., 150 East 42d Street, New York City, N.Y. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 3248-B, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 59640 (Sub-No. 4 TA), filed June 27, 1966. Applicant: PAULS TRUCKING CORPORATION, 833 Flora Street, Elizabeth, N.J. 07201. Applicant's representative: Charles J. Williams, 1060 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, except commodities, in bulk, in tank vehicles, between Cranford, N.J., on the one hand, and, on the other, points in Westchester and Rockland Counties, N.Y., New Castle and Kent Counties, Del., Delaware County, Pa., Wicomico County, Md., and Fairfield and New Haven Counties, Conn., under a continuing contract or contracts with Supermarkets General Corp., for 180 days. Supporting shipper: Supermarkets General Corp., 3 Commerce Drive, Cranford,

N.J. 07016. Send protests to: Walter J. Grossmann, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 363, 1060 Broad Street, Newark, N.J. 07102.

No. MC 92633 (Sub-No. 11 TA), filed June 27, 1966. Applicant: ZIRBEL TRANSPORT, INC., 420 28th Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust briquettes*, from Lewiston, Idaho, to points in Washington and Oregon, for 180 days. Supporting shipper: A. Kenneth Hinckle, general traffic manager, Potlatch Forests, Inc., Lewiston, Idaho 83501. Send protests to: L. C. Taylor, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 401 U.S. Post Office, Spokane, Wash. 99201.

No. MC 107983 (Sub-No. 8 TA), filed June 27, 1966. Applicant: COLD-WAY EXPRESS, INC., P.O. Box 26, Morton, Ill. 61550. Applicant's representative: George S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, including butter, powdered milk, condensed milk, ice cream mix, and oleomargarine*, between Litchfield and Minonk, Ill., on the one hand, and Indianapolis, Ind., Louisville, Ky., and Knoxville, Tenn., on the other, for 180 days. Supporting shipper: Sugar Creek Foods, Division of National Dairy Products Corp., 222 West Adams Street, Chicago, Ill. 60606. Send protests to: Raymond E. Mauk, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 1086 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 111397 (Sub-No. 76 TA), filed June 27, 1966. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, Ky. 42001. Applicant's representative: Herbert S. Melton, Jr., Suite 234 Katterjohn Building, Box 1284, Avondale Station, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro-phosphorous*, from the point site of Mobil Chemical Company, Mt. Pleasant, Tenn., to Weirton Steel Co., Wierton, W. Va., in specially designed trailers, for 150 days. Supporting shipper: Mobil Chemical Co., a Division of Mobil Oil Corp., Richmond, Va., 401 East Main Street, Richmond, Va. Send protests to: William W. Garland, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 390 Federal Office Building, 167 North Main, Memphis, Tenn. 38103.

No. MC 123067 (Sub-No. 47 TA), filed June 27, 1966. Applicant: M & M TANK LINES, INC., P.O. Box 4174, North Station, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral filler and/or pulverized slate*, in bulk, in tank, or hopper vehicles, from points in Stanly County, N.C. to points in South Carolina, for 180 days. Supporting shippers: Carolina Solite Corp., 4425 Randolph Road, Charlotte, N.C. 28211; Dickerson, Inc., General Contractors, Monroe, N.C. 28110. Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 206, 327 North Tryon Street, Charlotte, N.C. 28202.

No. MC 124796 (Sub-No. 20 TA), filed June 27, 1966. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 7236 East Slauson Avenue, Los Angeles, Calif. 90022. Applicant's representative: J. Max Harding, 301 NSEA Building, 14th and J Streets, Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters, furnaces, air conditioning equipment, and parts and repairs for such products*, from City of Industry, Calif. to Andulusia, Anniston, Athens, Birmingham, Decatur, Florence, Gadsden, Huntsville, Mobile, Montgomery, and Tuscaloosa, Ala., Bisbee, Buckeye, Casa Grande, Chandler, Flagstaff, Gila Bend, Phoenix, Temple, Yuma and Tucson, Ariz., El Dorado, Fayetteville, Fort Smith, Jonesboro, Little Rock, and Rogers, Ark., Boulder, Denver, Fort Collins, Grand Junction, Loveland, and Pueblo, Colo., Hartford, Manchester, New Haven, New London, Waterbury, and West Haven, Conn., Wilmington, Del., Washington, D.C., Clearwater, Coral Gables, Fort Lauderdale, Jacksonville, Lakeland, Miami, Orlando, Pensacola, and Tallahassee, Fla., Albany, Athens, Atlanta, Decatur, Gainesville, Macon, Valdosta, Columbus, Ga., Boise, Coeur D'Alene, Idaho Falls, Pocatello, Twin Falls, Idaho, Aurora, Chicago, Decatur, Des Plaines, East St. Louis, Evanston, Highland Park, Melrose Park, Peoria, Quincy, and Rockford, Ill., Elkhart, Fort Wayne, Gary, Indianapolis, Seymour, Union City, Ind., Bettendorf, Cedar Rapids, Des Moines, Fort Dodge, Iowa City, Mason City, Ottumwa, Sioux City, and Waterloo, Iowa, Dodge City, Hutchinson, Kansas City, Salina, Topeka, and Wichita, Kans., Lexington, Louisville, and Paducah, Ky., Alexandria, Baton Rouge, Gretna, Houna, Lafayette, Lake Charles, Monroe, New Orleans, and Shreveport, La., Portland, Maine, Baltimore, Md., Attleboro and Boston, Mass., Tecumseh and Detroit, Mich., Minneapolis and St. Paul, Minn., Biloxi and Jackson, Miss., Cape Girardeau, Independence, Joplin, Kansas City, Lebanon, Maryland Heights, Moberly, Rayton, and North Kansas, Mo., Rolla, St. Louis, and Springfield, Mo., Great Falls, Butte, and Billings, Mont., Hastings, Kearney, Lincoln, Omaha, Scottsbluff, and Grand Island, Nebr., Ely, Las Vegas, and Lovelock, Nev., Trenton, Camden, Jersey City, and Paterson, N.J., Alamogordo, Albuquerque, Farmington, Los Alamos, and Santa Fe, N. Mex., Albany, Ithaca, Mineola, New York, Rochester, Scotia, Syracuse, Buffalo, and Farmingdale, L.I., N.Y., Asheville, Charlotte, Greensboro, Winston-Salem, and Monroe, N.C., Akron, Cincinnati, Dayton, Lebanon, Lima, Mansfield, Marion, New Lexington, Upper Sandusky, Cleveland, and Columbus, Ohio, Ardmore, Enid, Oklahoma City, Tulsa, and Muskogee, Okla., Grants Pass, Klamath Falls, Medford, Portland, and Roseburg, Oreg., Pittsburgh and Philadelphia, Pa., Charleston and Columbia, S.C., Rapid City, S. Dak., Chattanooga, Knoxville, Memphis, and Nashville, Tenn., Amarillo, Abilene, Beaumont, Dallas, El Paso, Fort Worth, Houston, Lubbock, Odessa, San Angelo, San Antonio, Texarkana, Waco, Port Arthur, Lufkin, Longview, Tyler, Corpus Christi, McAllen, Austin, Temple, Denison, Wichita Falls, Great South West, and Garland, Tex., Cedar City, Layton, Ogden, and Salt Lake City, Utah, Alexandria, Richmond, and Newport News, Va., Seattle and Spokane, Wash., Green Bay and Milwaukee, Wis., Cheyenne, Casper, and Laramie, Wyo.; *raw materials, supplies and merchandise used in the manufacture of water heaters, furnaces, and air conditioning equipment*, from Cleveland, Ohio; Indianapolis, Ind.; Syracuse, N.Y.; Tecumseh, Mich.; Marion, Ohio; Union City, Ind.; Lima, Ohio; Upper Sandusky, Ohio; New Lexington, Ohio; Chicago, Ill.; Louisville, Ky.; Decatur, Ala.; St. Louis, Mo.; Colorado Springs, Colo.; Wichita Falls, Tex.; Lebanon, Ohio; Sidney, Ohio; Fort Wayne, Ind. to City of Industry, Calif., and *air coolers*, from Indianapolis, Ind. to City of Industry, Calif., for 180 days. Supporting shipper: Bernhard Ionescu, traffic manager, Day & Night Manufacturing Co., The Payne Co., 855 Anaheim-Puente Road, City of Industry, Calif. Send protests to: John E. Nance, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 127912 (Sub-No. 1 TA), filed June 27, 1966. Applicant: RICHARDSON LUMBER CO., INC., Otter Creek, Maine 04665. Applicant's representative: V. Baker Smith, 2107 Fidelity-Philadelphia Trust Building, Philadelphia, Pa. 19109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except plywood and veneer), from Ellsworth, Rockwood, and Wiscasset, Maine, and the port of entry between the United States and Canada which is near Champlain, N.Y., to points in Pennsylvania, Maryland, and Long Island City, N.Y. The operations herein sought will be limited to a transportation service to be performed under a continuing contract or contracts with Philip Carchman, d.b.a. Salem Forest Products, for 180 days. Supporting shipper: Salem Forest Products, Post Office Box 34, Abington, Pa. 19001. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04112.

No. MC 128343 TA, filed June 27, 1966. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Appli-

cant's representative: Ronald N. Cobert, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wires and cables, cord sets, and related accessory items*, from the plant sites of Carol Wire & Cable Corp., at Pawtucket, R.I., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin, (2) *power supply cords, extension cords, and insulated copper wire*, from the plant site of Miller Electric Co., at Woonsocket, R.I., to points in the States named in paragraph (1) above, (3) *wires and cables and plastics* (except in bulk), from the plant site of Crown Wire & Cable Corp., at Taunton, Mass., to the plant sites of Carol Wire & Cable Corp., at Pawtucket, R.I., and to the plant site of Miller Electric Co., at Woonsocket, R.I., (4) *scrap metal*, from Pawtucket, R.I., to points in New York, New Jersey, and Pennsylvania for the account of Carol Wire & Cable Corp., (5) *copper rod*, from Elizabeth, N.J.; Hicksville, N.Y., and Hastings on the Hudson, N.Y., to the plant sites of Carol Wire & Cable Corp. at Pawtucket, R.I., and to the plant site of Crown Wire & Cable Corp., at Taunton, Mass., (6) *jute*, from Indianola, Miss., to the plant sites of Carol Wire & Cable Corp. at Pawtucket, R.I., to the plant site of Crown Wire & Cable Corp. at Taunton, Mass., and to the plant site of Miller Electric Co. at Woonsocket, R.I.

(7) *cutting oils* (except in bulk), from Philadelphia, Pa., to the plant sites of Carol Wire & Cable Corp. at Pawtucket, R. I., (8) *chemicals* (except in bulk), from Palmerton, Pa., to the plant sites of Carol Wire & Cable Corp. at Pawtucket, R. I., (9) *plastic parts and metal stampings*, from New York, N. Y., and Kenilworth, N.J., to the plant sites of Carol Wire & Cable Corp. at Pawtucket, R.I., and to the plant site of Miller Electric Co. at Woonsocket, R.I., (10) *steel*, from Fairless and Pittsburgh, Pa.; Sparrows Point, Md.; Camden, N.J., and Cambridge, Mass., to the plant sites of Carlton Manufacturing Co. and Carol Wire & Cable Co. at Pawtucket, R.I., (11) *asbestos*, from Manheim, Pa., to the plant sites of Carol Wire & Cable Corp. at Pawtucket, R.I., (12) *synthetic rubber and plastics* (except in bulk), from Passaic, N.J., to the plant sites of Carol Wire & Cable Corp. at Pawtucket, R.I., for 180 days.

The above operations are limited to a transportation service to be performed under a continuing contract or contracts with Carol Wire & Cable Corp. and its subsidiaries, Miller Electric Co., Crown Wire & Cable Corp., and Carlton Manufacturing Co. Supporting shippers: Carol Wire & Cable Corp., 249 Roosevelt Avenue, Pawtucket, R.I. 02865; and its subsidiaries Carlton Manufacturing Co., Pawtucket, R.I.; Crown Wire & Cable Corp., Taunton, Mass.; and Miller Electric Co., Woonsocket, R.I. Send protests to: Gerald H. Curry, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 187 Westminster Street, Providence, R.I. 02903.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-7305; Filed, July 1, 1966; 8:50 a.m.]

[Notice 1375]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 29, 1966.

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-68769. By order of June 22, 1966, the Transfer Board approved the transfer to Paul S. Hendricks, Inc., Box 145, Hilltown, Pa. 18927, of a portion of the operating rights in certificate No. MC-70833, issued March 31, 1966, to Joseph Zogorski, Box 153, Hulmeville, Pa. 19047, the portion so transferred authorizing the transportation of: Fertilizer, seed, feed, plant spraying materials, and empty containers used for the carrying of agricultural commodities, from points in New Jersey, Delaware, and Maryland, to points in Bucks County, Pa., other than incorporated municipalities; and, fertilizer from Baltimore, Md., to points in Bucks County, Pa.

No. MC-FC-68771. By order of June 23, 1966, the Transfer Board approved the transfer to George's Bus Co., Inc., Brooklyn, N.Y., of certificate in No. MC-1111, issued April 28, 1966, to Metropolitan Bus Corp., Brooklyn, N.Y., authorizing the transportation of: Passengers, in charter operations, from points in Orange and Rockland Counties, and New York, N.Y., to points in New Jersey, New York, and Connecticut and return. Arthur J. Piken, 160-16 Jamaica Ave., Jamaica, N.Y. 11432, attorney for applicants.

No. MC-FC-68794. By order of June 28, 1966, the Transfer Board approved the transfer to K. P. Moving & Storage, Inc., 1475 South Acoma Street, Denver, Colo., of certificate in No. MC-104867 (Sub-No. 2), issued July 17, 1953, to James Claire Lane, doing business as Claire Lane Trucking Co., 216 Colorado Avenue, Paonia, Colo., authorizing the transportation of: Household goods as defined by the Commission, between points in Montrose, Delta, and Gunnison Counties, Colo., on the one hand, and, on the other, points in a specified area in Utah; emigrant movables, between points in Montrose, Delta, and Gunnison Counties, Colo., on the one hand, and, on the other, points in Nebraska and Kansas; and livestock, used farm machinery, and agricultural commodities including fresh fruits, between points in Montrose, Delta, and Gunnison Counties, Colo., on the one hand, and, on the other, points in Nebraska and Kansas, and those in Carbon, Emery, and Grand Counties, Utah.

No. MC-FC-68815. By order of June 28, 1966, the Transfer Board approved the transfer to M. L. Hatcher Pick Up and Delivery Services, Inc., 1301 Dayton Street, Greensboro, N.C., of the operating rights in certificate No. MC-126574, issued September 16, 1965, to M. L. Hatcher, doing business as Southern Pickup & Delivery Service, Post Office Box 4005, Greensboro, N.C., authorizing the transportation of: Textiles and textile products, and materials and supplies used in the manufacture thereof, between Greensboro and Burlington, N.C.

No. MC-FC-68818. By order of June 28, 1966, the Transfer Board approved the transfer to Chattanooga-Crossville Bus Lines, Inc., Chattanooga, Tenn., of the operating rights in certificate No. MC-121179 (Sub-No. 2), issued July 7, 1965, to Charles C. Moody, doing business as Chattanooga-Crossville Bus Lines, Chattanooga, Tenn., authorizing the transportation of: Passengers and their baggage, and newspapers and express, between Chattanooga, Tenn., and Columbia, Ky., over a specified regular route, serving all intermediate points. Blaine Buchanan, 1024 James Building, Chattanooga, Tenn. 37402, attorney for applicants.

No. MC-FC-68870. By order of June 28, 1966, the Transfer Board approved the transfer to Vincent J. Herzog, Honesdale, Pa., of the operating rights of Edwin Schultz, Callicoon, N.Y., in Certificate No. MC-1141, issued June 14, 1941, authorizing the transportation, over regular routes, of general commodities, except dangerous explosives, between Callicoon, N.Y., and New York, N.Y.; and over irregular routes, of coal, from Carbondale, Pa., and points within 10 miles of Carbondale to Callicoon, N.Y., and points in Sullivan County, N.Y., within 15 miles of Callicoon; household goods, as defined, between Callicoon, N.Y., and points in Sullivan County, N.Y., within 15 miles of Callicoon, on the one hand, and, on the other, points in Pennsylvania, New Jersey, and New York; and livestock, between Callicoon, N.Y., on the one hand, and, on the other, points in Pennsylvania within 15 miles of Callicoon. John M. Zachara, Post Office Box "Z", Paterson, N.J. 07509, representative for applicants.

No. MC-FC-68872. By order of June 28, 1966, the Transfer Board approved the transfer to Max E. Jensen, doing business as Ace Van Lines, Brooklyn,

N.Y., of the operating rights of Frederick Harmeyer, doing business as A. E. Cron Co., New York, N.Y., in Certificate No. MC-48967, issued December 19, 1940, authorizing the transportation, over irregular routes, of household goods, between New York, N.Y., on the one hand, and, on the other, points in New York, Connecticut, New Jersey, and Pennsylvania. Jerome G. Greenspan, 17 John Street, New York, N.Y. 10038, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-7306; Filed, July 1, 1966; 8:50 a.m.]

FEDERAL AVIATION AGENCY

POLICY GOVERNING USE OF WASHINGTON NATIONAL AIRPORT

JULY 1, 1966.

Preamble. To provide the optimum utilization of Washington National Airport for both airline travelers and general aviation purposes, to emphasize its role as a shorthaul commuter and local service airport, to reduce undue congestion of passengers, parking and ground facilities, to maintain efficient runway operations, and to improve service to the traveling public, the following policies are adopted today and will apply to operations beginning August 7, 1966.

AIR CARRIERS

1. Air carrier flights serving passengers at Washington National Airport are limited to those whose last stop before landing at Washington National Airport and first stop after taking off at Washington National Airport are within 500 statute miles from Washington National Airport. To accomplish this objective those air carrier nonstop schedules to or from Washington National Airport, which as of July 1, 1966, exceeded the 500-statute mile perimeter will be removed from Washington National Airport by August 7, 1966. Those flights which operated within the 500-mile perimeter on July 1, 1966, will be permitted to remain in service at Washington National Airport after August 7, 1966, without further specific approval.

2. All changes or additions to schedules or type and model of aircraft after July 1, 1966, will require the written permission of the Director, Bureau of National Capital Airports. The Director will consider approval for changes or additions with regard to continuing the use of Washington National Airport on a manageable basis now considered to be approximately 40 air carrier operations per hour spaced evenly through the hour.

3. Air carriers operating flights within this 500-mile perimeter that originate or terminate outside of it: (a) Shall not advertise or otherwise actively promote service on such flights to any points outside the perimeter if nonstop service to or from such points is available at other airports serving the Washington/Baltimore area; and (b) shall not operate any such flight between Washington National Airport and any one of the Pacific Coast States with fewer than two intermediate stops.

SCHEDULED AIR TAXI

1. Present scheduled air taxi operations will be permitted to remain in effect without further specific approval. Any additional scheduled air taxi service will require the written permission of the Director, Bureau of National Capital Airports. The air taxi schedules will be evaluated in the same manner as the air carrier schedules with four operations per hour considered appropriate.

2. Nonscheduled air taxi operations will be considered in the general aviation category.

GENERAL AVIATION

It is tradition and policy to operate the air traffic control system on a "first-come, first-served" basis. However, the severe congestion at Washington National Airport requires a reduction in both air carrier and general aviation operations. It would be grossly unfair to the millions of passengers who will use the airport to severely restrict air carrier operations and then permit unrestricted general aviation operations to fill in the void left by the air carriers to the extent that runway and airspace congestion thwarts the purpose of the air carrier restrictions.

The instrument flight capacity of the airport is approximately 60 operations per hour. Actual capacity varies from 30 to 100 depending upon wind, weather and "mix" of traffic. The historical use has been 73 percent air carrier and 27 percent general aviation. It is intended to use the available capacity equitably between the competing classes by allocating 16 (27 percent) of the 60 to general aviation operations. All 60 operations will be handled under instrument flight rules regardless of actual weather conditions on a "first-come, first-served" basis.

With the objective of optimum use of the runways, additional general aviation IFR flight plans will be accepted to the extent the air carriers do not use their hourly allocation. For example, if only 30 air carrier flights are scheduled in one hour, 30 general aviation IFR flights will be accepted.

Realizing that this method will still leave unused capacity at certain times, VFR general aviation traffic will be accepted on a noninterference basis to the extent that capacity exists.

GENERAL

1. It is the policy of the FAA to provide the maximum service to the flying public consistent with safety and no aircraft will be unnecessarily delayed.

2. Advisory information on delays will be disseminated through the FAA air traffic system to alert all aircraft of weather and saturation conditions.

3. The newly appointed joint airline-FAA committees will promply (a) recommend improvements to relieve congestion in the terminal, parking and highway areas at Washington National Airport, and (b) work on problems affecting ground transportation to and from Dulles and Friendship.

4. This policy will be reviewed every 90 days and restrictions added or relaxed as required by the public interest.

5. The FAA is actively seeking means of providing additional general aviation facilities in the Washington area.

Issued in Washington, D.C., on July 1, 1966.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 66-7380; Filed, July 1, 1966; 2:47 p.m.]

CUMMULATIVE LIST OF PARTS AFFECTED—JULY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during July.

FEDERAL REGISTER

VOLUME 31 • NUMBER 128

Saturday, July 2, 1966 • Washington, D.C.

PART II

Department of Agriculture

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Consumer and Marketing Service

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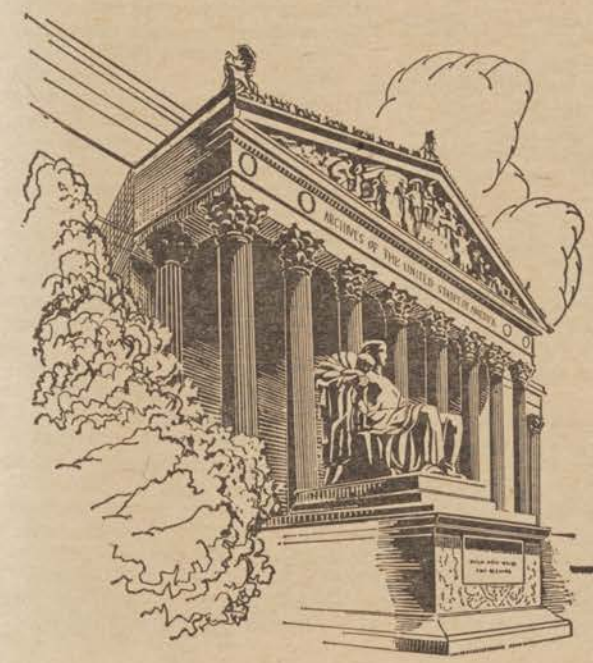
Milk in Central Illinois and Suburban St. Louis Marketing Areas

Recommended Decision



DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1032, 1050]

[Docket Nos. AO-355, AO-313-A8]

MILK IN CENTRAL ILLINOIS AND SUBURBAN ST. LOUIS MARKETING AREAS

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of milk in the Central Illinois marketing area and proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Suburban St. Louis marketing area (proposed herein to be redesignated the Southern Illinois marketing area). Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 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 hearing on the record of which the proposed marketing agreements and orders, as hereinafter set forth, were formulated, was conducted at Peoria and Springfield, Ill., on October 6–8 and 11–13, 1965, pursuant to notice thereof which was issued September 10, 1965 (30 F.R. 11761).

The economic and marketing conditions which relate to the handling of milk in the present Suburban St. Louis marketing area and to an extensive, unregulated region (56 counties) in central and southern Illinois were considered at the hearing. Proposals considered at the hearing with respect to marketing area included the alternatives of (1) issuing a separate order for a portion of the presently unregulated area to be known as the Central Illinois marketing area; and (2) inclusion of all or a portion of the above unregulated area under the Suburban St. Louis order by expansion of the marketing area. The discussion in the findings and conclusions of various issues on the record is therefore in the light of such alternative approaches to regulation of certain territory which various proponents would or would not include under one order or the other.

The material issues of the record relate to:

1. Whether the handling of milk produced for sale in the proposed new area to be regulated is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products.

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order for all or part of the proposed new area to be regulated which will tend to effectuate the declared policy of the Act.

3. If an order is issued for any or all of the proposed new area to be regulated, what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

4. With respect to the Suburban St. Louis order; revision of order provisions to properly reflect marketing conditions in the presently regulated territory and territory proposed to be added to the marketing area, and coordination with provisions of an order which may be issued for a Central Illinois marketing area including:

(a) The scope of regulation:

(1) Marketing area;

(2) Pool plant provisions; and

(3) Producer milk, including:

(i) Milk received at pool plant;

(ii) Milk diverted to nonpool plants not regulated by another order;

(iii) Milk diverted to plants regulated by another order; and

(iv) Milk diverted to other pool plants.

(4) Other definitions, including handler, fluid milk product, and such definitions as necessary to conform with needed changes in other order provisions.

(b) The classification and allocation of milk, including:

(1) Revision of shrinkage provisions;

(2) Disposition of fluid milk products as animal feed and dumped; and

(3) Surplus disposal area.

(c) The determination and level of class prices and butterfat differentials.

(d) Application of location adjustments to:

(1) Milk received from producer farms at pool plants;

(2) Milk diverted to nonpool plants not regulated by any order;

(3) Milk diverted to plants regulated by another order;

(4) Milk diverted between pool plants; and

(5) Milk transferred between plants.

(e) Administrative provisions and conforming changes.

This decision deals with all of the above issues except those issues under the Suburban St. Louis order regarding milk diverted to nonpool plants not regulated by another order and the appropriate location pricing of such milk (Issues No. 4 (a) (3) (ii) and (d) (2)). A decision dealing with these two issues under the Suburban St. Louis order was issued June 16, 1966, and the proposed amendments are republished herein.

FINDINGS AND CONCLUSIONS

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

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

The character of commerce in the proposed Central Illinois marketing area is affected by sales in the area of milk produced outside the State.

Milk produced on farms in Wisconsin is moved regularly to a principal handler in the proposed area to be regulated. This handler has wide distribution throughout the marketing area. Additional importation of out-of-State milk often occurs on a seasonal basis to supplement the regular supply of milk from local producers and regular out-of-State sources. Another handler who would be regulated under the proposed extension of the Suburban St. Louis order (hereinafter named the Southern Illinois order) distributes milk in the proposed Central Illinois marketing area. This handler also receives milk from Wisconsin. Milk presently received from sources in Iowa by Suburban St. Louis handlers is also available to Central Illinois handlers.

There is substantial competition for route sales of fluid milk products between Central Illinois and other order handlers. Distribution is made in the marketing area by handlers regulated under the Rock River Valley order and Quad Cities-Dubuque order. The commerce in fluid milk and dairy products in each of these orders has previously been found to be in the current of or to burden interstate commerce in milk and its products. There is also distribution in the proposed Central Illinois marketing area and surrounding counties by Chicago market handlers. Although the Chicago order was terminated effective May 1, 1966, the interstate character of the commerce of handlers previously regulated by the order was determined as a basis for issuance of that order. Official notice of termination of the Chicago order May 1, 1966, is taken (31 F.R. 6195).

A handler who would be regulated by the Central Illinois order receives packaged fluid milk products at his Peoria, Ill., plant from an affiliated St. Louis order plant. The Peoria plant ships packaged cottage cheese to the St. Louis plant for sale in that market.

Manufactured dairy products such as nonfat dry milk, butter and cheese are brought in from out-of-State sources. These products compete with the same products made from locally produced Illinois milk. Such locally produced manufactured products are likewise sold in States other than Illinois.

2. *Need for regulation.* The issuance of a marketing agreement and order for Central Illinois and the proposed amendments to the tentative marketing agreement and order for the Suburban St. Louis order (to be redesignated the Southern Illinois order) will tend to effectuate the declared policy of the Act. Marketing conditions throughout the entire proposed territory to be regulated are such that the purposes of the Act will be served by regulation of such territory or parts thereof under these orders with appropriate division of the territory between the orders.

A primary purpose of a Federal order is to assure orderly marketing conditions for milk of producers. This is accomplished by establishing minimum prices to be paid by handlers according to the use made of the milk.

Dairy farmers delivering milk to plants within the proposed area to be regulated are substantially identified with the market. While these producers have some assurance of an outlet for their milk, they nevertheless are confronted with a threat of instability which would be reduced under order regulation.

Without regulation the specific problems confronting such producers include:

(1) Lack of assurance that in bargaining for a price they will receive returns commensurate with the value of their milk.

(2) Possible loss of market due to the incentive of handlers to seek out other supplies on a temporary basis at lesser price.

Dairy farmers who are at a greater distance from the proposed area who supply handlers have even less assurance of a stable connection with the market without regulation.

The availability of alternative supplies is a substantial factor weakening the bargaining position of local producers. The development of supply sources at a distance from the proposed area has come about also because the supply produced locally is not sufficient for handlers' needs.

Many of the handlers in the area to be regulated rely on additional milk supplies from sources mainly in Wisconsin and Minnesota to supplement local milk received from nearby producers. Some of these more distant milk supplies represent available milk which is surplus to the fluid milk requirements of other markets and are only incidentally associated with the Illinois areas proposed for regulation. Further, it is possible for handlers procuring supplemental milk in the regions of denser milk production in Wisconsin and Minnesota to shift from source to source on an opportunity basis. This is not conducive to stability of the market, nor does it tend to assure a regular and dependable supply of pure and wholesome milk. This is true because in the absence of a Federal order with specified shipping requirements for pool participation, the suppliers of such supplemental milk are under no requirement to make a dependable supply of milk available for the Illinois markets.

Under these circumstances the specific market conditions which obtain in the market and reflect instability are as follows:

Dairy farmers delivering to the substantial number of plants operated by presently unregulated proprietary handlers in the two markets have had little or no opportunity to bargain for their milk prices. The methods of payment for milk in the area proposed for regulation lack uniformity and thus reflect the particular bargaining situation of individual groups of producers and handlers. Many of the handlers with unregulated facilities pay producers on a flat price basis which usually shows little variation from month to month. Such flat prices have not been related to the use made of milk, and are often closely related to blended prices paid producers delivering to nearby Federal order markets such as Chicago, Quad Cities-Dubuque, and the Suburban St. Louis market. A Bloomington, Ill., handler for example testified that he set his price on a flat price paid by another unregulated handler at Decatur, Ill. In the past the Bloomington handler has related his pricing to Chicago and Peoria producer prices. Other handlers pay prices which are very often related to the flat prices paid by their nearest competitor.

Since most of these plants buying on a "flat price basis" are using a relatively high percentage of their milk in fluid milk products, producers receive less than the full utilization value for their milk. The resulting pay prices, in many cases, are below the level of prices contemplated by the Act.

Grade A milk from other markets which is brought in to supplement local supplies of producer milk is in some instances priced higher than prices paid for the regular supply of producer milk. In other instances, particularly during months of flush production, milk from sources in Wisconsin and Minnesota would be available at prices only slightly above the value of such milk for manufacturing purposes. For the most part, however, the existence of surplus milk supplies to the north has tended to exert a downward pressure on the level of prices paid Illinois producers and to make more difficult attempts by many producers to bargain effectively for their prices.

The orders herein recommended will tend to effectuate the declared policy of the Act by assisting in the establishment and maintenance of orderly marketing conditions, and thus provide the basis for insuring an adequate and dependable supply of milk for consumers. The principal measures to be employed for this purpose are:

(1) The determination of minimum prices to producers at levels contemplated under the Agricultural Marketing Agreement Act of 1937, as amended;

(2) The establishment of uniform pricing to handlers for milk received from producers according to a classified pricing plan based upon the utilization made of the milk;

(3) An impartial audit of handlers' records of receipts and utilization, to insure uniform prices for milk purchased;

(4) A means for insuring accurate weights and tests of milk;

(5) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns from the sale of reserve milk; and

(6) Marketwide information on receipts and sales and other data relating to milk marketing in the area.

FINDINGS AND CONCLUSIONS ON SCOPE AND TERMS OF CENTRAL ILLINOIS ORDER

3. (a) *Scope of regulation.* It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specified definitions to describe the area involved, and to describe the category of persons, plants, and milk products to which the applicable provisions of the order relate.

Marketing area. The marketing area for Central Illinois should include all the territory within the Illinois counties of:

Cass.	McDonough.
Ford.	Peoria.
Fulton.	Stark.
Knox.	Tazewell.
Livingston.	Warren.
Marshall.	Woodford.
Mason.	

Such marketing area would encompass all territory within the above mentioned counties together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties.

The total population of the proposed Central Illinois market is approximately 600,000. Greater Peoria and Pekin combined have a population slightly in excess of 150,000. Other cities in the area include Galesburg with a population of about 40,000, and Canton, Macomb, and Monmouth, each with a population in excess of 10,000.

The sanitary regulations applicable to Grade A milk produced for fluid distribution throughout the proposed marketing area are patterned after the U.S. Public Health Ordinances and Code. The State regulations provide minimum standards which are, for the most part, adopted by all local health authorities in the proposed marketing area. Thus, milk meeting the sanitary requirements of the State of Illinois is acceptable for distribution in such cities as Peoria and Pekin. The similarity of health standards and reciprocity among health departments throughout the 13-county area will permit free movement of fluid milk products throughout the proposed marketing area.

The extent of the marketing area adopted herein conforms closely to the sales areas of plants which would be fully regulated by the order. Nearly all of the major distribution areas of handlers to be regulated would be within the regulated area. Further, in every part of the marketing area, handlers to be regulated presently have the major-

ity of Class I sales. The other sales in the marketing area are made by handlers regulated under other Federal orders, including Quad Cities-Dubuque, Rock River Valley, Chicago (now terminated) and Suburban St. Louis orders. Only a small percentage of fluid milk products to be sold in the proposed marketing area would be by plants located outside the marketing area and not subject to regulation under a Federal order.

Two of the major handlers in the market are located in Peoria, Ill., and another in Pekin which is about 10 miles south of Peoria. These three handlers account for nearly 75 percent of the total Class I sales in Peoria and Tazewell Counties where the greatest concentration of population in the marketing area is located. These three handlers also have over 60 percent of the Class I sales in the surrounding counties of Stark, Knox, Marshall, Mason, and Woodford. The major sales areas of these handlers also extend into Fulton, Warren, and McDonough Counties where their distribution accounts for 40 percent or more of the total. Sales of these handlers as well as sales of handlers to be regulated under the proposed Southern Illinois order, and sales by other regulated handlers are expected to constitute the majority of sales in these latter three counties. Local handlers in these three counties who would become regulated are located at Canton, Macomb, and Monmouth. All of these counties must necessarily be included in the regulated area to assure orderly marketing conditions for milk to be regulated.

Cass County also should be included in the Central Illinois marketing area. Forty percent or more of the Cass County sales are made by a handler at Peoria who will be regulated under the proposed Central Illinois order. These sales exceed those of a local handler located at Beardstown, Ill., who is the only handler located in the county. Other sales in the county are made largely by the handler at Pekin and by handlers who will be regulated under the expanded area for the Southern Illinois order. Since the county is more closely associated with the proposed Central Illinois order than with the adjoining Southern Illinois order, it should be included in this marketing area.

Menard County, located directly east of Cass, is more closely associated with area proposed for the Southern Illinois market than this market. The handler at Champaign, Ill., whose plant would be regulated under the Southern Illinois order, estimates that his plant accounts for 50 percent or more of the total county sales. In addition, the proponent cooperative, which serves Menard County from its plants at Carlinville and Quincy, estimates that it accounts for about 36 percent of the total county sales. The greater proportion of such sales originate at the Carlinville plant which is regulated by the Suburban St. Louis order. Since Southern Illinois regulated handlers will account for about 80 percent of the total sales, Menard County should be added to the Southern Illinois marketing area.

The proposed Central Illinois order should not be extended to include the seven western counties of Adams, Brown, Hancock, Henderson, Pike, Schuyler, and Scott Counties. The record does not provide a sufficient basis for extending regulation to these counties. Dairy farmers delivering to some six handlers with plants located in Quincy presented no testimony as to the need or desirability of extending regulation to include this area. Dairy farmers supplying other handlers selling in these counties also did not support the inclusion of these counties. The plants previously referred to as located in counties to be regulated have only a minor share of the sales in these counties.

A large part of the sales in these counties are made by the plant of a cooperative at Quincy. This cooperative association, one of the proponents of the Central Illinois order, did not support inclusion of these counties. Its plant accounts for significant percentages of the total county sales in five of the western counties as follows: Adams, 30 percent; Brown, 50 percent; Hancock, 40–50 percent; Pike, 35 percent; and Scott, 50 percent.

Adding these counties to the marketing area would extend regulation to handlers whose sales are mainly in these counties or areas outside the proposed regulation. If Brown County were added to the marketing area, at least two presently unregulated milk dealers with plants at Quincy, Ill., could become regulated. A similar situation would result if Hancock County were added to the marketing area. This would involve two Quincy handlers and at least two handlers in Iowa. Henderson County, which has a population of only 8,000, if included would likely involve three Iowa handlers whose marketing situation and distribution is not clear on the record. If Pike County were added to the marketing area, three of the Quincy handlers could become regulated. At least one Iowa handler also has sales in this county. The same situation would be true of Schuyler and Scott Counties. Inclusion of any one of these counties would involve handlers whose major business appears to be in areas only incidentally associated with the Central Illinois market at this time.

It is concluded that, on the basis of this record, the Central Illinois marketing area not include the western counties of Adams, Brown, Hancock, Henderson, Pike, Schuyler, and Scott.

Certain other counties located in north and northeast Illinois which were proposed for regulation should not be included in the Central Illinois marketing area. These are the counties of Bureau, La Salle, and Putnam.

In Bureau County some 30 percent of the sales are made by unregulated handlers whose plants are located within the three counties of Bureau, La Salle, and Putnam. Only 17 percent of the county sales are made by handlers who will be regulated by the Central Illinois order. Approximately 52 percent of the sales are made by two Chicago market handlers, a Rock River Valley handler and two Quad Cities-Dubuque regulated handlers.

La Salle County is served by 5 local handlers who would only become regulated if these 3 counties are added. These handlers account for about 24 percent of the La Salle County sales. About 63 percent of the county sales are being made by Chicago market handlers. Only 13 percent of the sales are by handlers who will be regulated under the Central Illinois and Southern Illinois orders. In Putnam County only 20 percent of the sales are made by handlers who would otherwise be regulated by this order.

Of the 5 northeastern counties proposed by handlers to be added to the Central Illinois marketing area (Ford, Grundy, Iroquois, Kankakee, and Livingston) only the counties of Livingston and Ford should be added to the Central Illinois marketing area.

In Livingston County, handlers who will be regulated under the Central Illinois and the proposed Southern Illinois order account for 58 percent of the county sales. Of the 58 percent, 39 percent would be made by Central Illinois handlers and 19 percent by handlers to be regulated by the proposed Southern Illinois market. The remainder of sales in this county would be accounted for by Chicago market handlers (handlers previously regulated under the Chicago Federal order).

In Ford County, the percentage of total sales made by Central and Southern Illinois handlers would amount to approximately 83 percent, with about 52 percent being made by Central Illinois handlers and about 31 percent by Southern Illinois. The remaining sales in Ford County would likewise be accounted for by Chicago market distributors.

Distribution in the counties of Grundy, Iroquois, and Kankakee is primarily by Chicago market handlers. These handlers account for approximately 55 percent of the sales in Grundy County, whereas handlers to be regulated by the proposed Central and Southern Illinois orders account for only about 15 percent of the total county sales. The remaining 30 percent is made by local handlers. In Iroquois County, Chicago market handlers account for 43 percent whereas Central and Southern Illinois handlers account for 42 percent. The remainder is accounted for by two unregulated handlers. In Kankakee County, Chicago market handlers have 61 percent of the sales with Central and Southern Illinois handlers accounting for only 14 percent. Local handlers account for the remaining distribution in both counties. Since Chicago handlers have the greater proportion of sales, these counties should not be included in the proposed regulations for either Central or Southern Illinois.

Although some of the route distribution of handlers to be regulated extends beyond the boundaries of the counties proposed for regulation, it is neither practical nor reasonable to extend the regulated area to cover all of a handler's route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practicable one in that it will encompass a substantial percentage of the fluid milk sales of

most handlers to be regulated and result in only a minimum of such sales being made outside of the proposed marketing area.

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 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.

Limited quantities (as provided) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of "partial" regulation to plants having less association than required for market pooling would not jeopardize marketing conditions within the regulated marketing area. Official notice is taken of the June 19, 1964, decision (29 F.R. 9002) supporting amendments to several orders, including the Suburban St. Louis order.

The operator of the partially regulated plant is afforded the options of: (1) Paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

In the course of the operation of the orders the question may arise as to territory within the boundaries of the designated marketing areas which is occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other establishments and whether such territory shall be considered as within the marketing areas. So there will be no doubt as to the meaning or the intent of the marketing area definition of the orders, it is provided that the marketing areas shall include any territory wholly or partly within the area which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments.

Producer. The term "producer" should include dairy farmers who regularly provide Grade A milk to pool plants for fluid consumption. Accordingly, the definition of "producer" should distinguish between those dairy farmers who produce milk in compliance with the Grade A inspection requirements of a duly constituted health authority and those dairy farmers whose milk is other than Grade A and qualified only for manufacturing purposes.

Milk qualified for fluid consumption in the proposed area is required to be produced in compliance with the State of Illinois or municipal health ordinances. Also, milk approved by governmental authorities for consumption at installations under their supervision in the marketing area should be considered as meeting the sanitary requirements equivalent to milk otherwise designated as Grade A.

The identification of a dairy farmer as a "producer" should be established primarily on the basis of receipt of his Grade A milk at a plant which is supplying milk to the market in quantities sufficient to be designated a "pool plant." The milk of the dairy farmer thus becomes part of the total supply which is handled in a manner that assures the market of an adequate and reliable supply including a market reserve.

Because of variations in market needs and variations in production, not every producer's milk is needed every day at a fluid milk processing plant. It is necessary, however, that there be a reserve of qualified milk available to fulfill the fluctuating needs of the market. At any particular time, therefore, there are dairy farmers who are part of the regular supply whose milk must be temporarily diverted out of the market. Such dairy farmers who have established a regular association with the market should continue to qualify as producers under the rules described under the definition of producer milk.

Handler. A handler definition is necessary to identify those individuals who handle the milk which is subject to regulation. Such persons thereby incur certain responsibilities to submit to the market administrator reports of receipts of milk and its utilization. Also, if they receive producer milk they are responsible for payment for such milk in accordance with its classified use value.

As herein provided the definition includes:

(1) Any person operating a pool distributing or supply plant;

(2) A cooperative association with respect to producer milk diverted from a pool plant to a nonpool plant;

(3) A cooperative association with respect to milk for which it assumes responsibility for delivery from farms to pool plants in tank trucks owned, or operated by, or under contract to such cooperative association;

(4) Any person operating a partially regulated distributing plant;

(5) Any person in his capacity as an operator of an unregulated supply plant;

(6) Any person in his capacity as an operator of an other order plant disposing of milk in the marketing area; and

(7) A producer-handler.

The specific responsibility of each type of handler is described in the applicable order provisions.

The handler who receives milk from producers at a pool plant is responsible for reporting in detail the quantities of skim milk and butterfat received from each producer and each other source. He is also responsible for reporting the utilization of such milk. He must make payment to producers and to the producer settlement fund in accordance with terms of the order.

Cooperative associations should be handlers under the order with respect to milk of producers diverted to nonpool plants. In this function the cooperative association is responsible for reporting the identity of each producer whose milk is diverted, the quantity of milk and butterfat for each producer, and the disposition of such milk.

In performing the function of diversion under the rules described in the order, the cooperative association will be balancing supplies according to individual handler's needs, and disposing of market reserves. In this capacity the cooperative association should be considered to be the handler paying into or receiving money from the producer settlement fund so that diverted producers may receive the uniform price. The association should be responsible for the administrative expense on this milk.

Cooperative associations often take responsibility also for delivery of milk from producers' farms to regulated plants. Cooperative associations in this market are able to, and do provide such delivery in tank trucks. Each truckload of milk would ordinarily contain the production of several producers.

There are definite advantages to the association in this method of handling milk. Primarily, it gives the association opportunity to balance milk supplies among the various fluid milk plants. In

this way, it can arrange the most economical movement and utilization of the market supply.

When milk is picked up by tank trucks under the control of the cooperative association and milk of several farmers is commingled in one load, the cooperative association is in possession of the only information as to the quantities of milk from each individual dairy farmer. The cooperative association should be required, therefore, to report to the market administrator the quantity of milk received from each dairy farmer. The association should also be responsible for obtaining samples at the farm for the purpose of butterfat testing, and for the testing of such samples.

If the association is assuming responsibility for collection of dairy farmers' milk in tank trucks and delivering such milk from the farm to pool plants, it should be defined as the handler on such milk and should notify the market administrator and the handler to whom the milk is delivered in writing prior to the first day of the month in which such arrangement is effective. For pricing purposes, the milk should be considered as received by the cooperative association at the location of the plant to which delivered.

Another category of handler is the operator of a partially regulated distributing plant. Such plants do not distribute sufficient milk in the regulated area to qualify as fully regulated plants or are not primarily engaged in fluid milk distribution. Such plant operators must submit reports to the market administrator so that (1) he may ascertain their status under the order and (2) the money obligation, if any, of such handler may be established. These requirements are necessary to assure that the orderly marketing of producer milk will not be disrupted.

The definition of "handler" should include an operator of a plant which ships bulk milk to regulated plants in the market, although in quantities less than sufficient to qualify for full regulation. Such a plant is defined elsewhere herein as an "unregulated supply plant." Definding the plant operator as a handler will authorize the market administrator to obtain reports from such plant so as to determine its status under the order.

Also, a plant which is regulated under another order may nevertheless dispose of some milk in this marketing area. The operator of such plant should be defined as a handler under this order, although this plant may continue to be regulated under the other order. This will authorize the market administrator to obtain reports from such plant to determine its status under the order.

"Producer-handler" should be defined as any person who:

(1) Operates a distributing plant, processes milk of his own farm production, and who distributes all or a portion of such milk on routes in the marketing area;

(2) Receives no milk from other dairy farmers or fluid milk products from nonpool plants; and

(3) Assumes as his personal enterprise and risk the processing and distribution of fluid milk products and the maintenance, care and management of dairy animals and other resources necessary to produce his own farm milk production.

In this order producer-handlers are exempt from pricing and pooling provisions. They should be required, however, to make reports to the market administrator in order that he may determine whether the operator continues to meet the producer-handler definition.

The exemption from pricing and pooling of a producer-handler should be limited to bona fide producer-handlers. The advantage of exemption from pooling enjoyed by producer-handlers is such that some milk distributors attempt to acquire producer-handler status by superficial association with the milk production operation. Various business arrangements may be used to acquire an appearance of a true producer-handler operation. To preclude the use of such devices the order should provide that, to be a producer-handler, the maintenance, care and management of the dairy animals and all other resources used to produce the milk as well as the resources required for the distribution of the milk are each the personal enterprise and the personal risk of the person who claims producer-handler status.

The primary source of supply for producer-handlers is ordinarily milk of his own production. If in any case he needs to supplement such supply, he may procure milk for Class I use from pool plants.

If a producer-handler were permitted to obtain milk from unregulated sources, this would allow him an undue advantage compared to regulated handlers. Other handlers incur obligations to the pool on unregulated milk used in Class I disposition, but producer-handlers are exempt from pooling. Further, such use of unregulated milk by producer-handlers would be inequitable to producers. It would permit use in the fluid market of unregulated milk without such milk being subject to the order's allocation and payment provisions, which provide proper apportionment to producers of returns from Class I dispositions.

The only exception allowable to a producer-handler in receiving other source milk would be for purposes of fluid products fortification. Such receipts would ordinarily be in the form of powder or condensed milk. To safeguard against use of such other source receipts for any purpose except fortification, it should be provided that to maintain status as a producer-handler such operator's Class I disposition must not exceed his own farm production and receipts of fluid milk products from pool plants.

Plants. A plant definition is needed to assist in defining what operations are subject to regulation. Under the plant definition herein provided, all of the operations conducted on the premises of an establishment operated as a single unit for the purpose of receiving milk for assembly and transfer, or for processing and packaging milk and milk products are operations of a plant. A facility only for transferring milk from one tank truck to another is not considered to constitute a plant but is defined in subsequent findings as a reload point. Also, a distribution depot for storage of packaged fluid milk products in transit for route disposition should not be considered a plant.

Pool plants. It is essential to the operation of the order to distinguish between those plants substantially engaged in serving the fluid needs of the order market and those plants which do not. It is of particular importance to establish minimum performance standards for plants which serve the market in a way, or to a degree, that they should be included in the market pool which provides the means of paying uniform returns to all producers for the market. Such distinction is necessary, for otherwise the proceeds of the higher Class I price for milk sold in the fluid market would be dissipated on milk acquired by handlers primarily for manufacturing purposes. Such proceeds then would not go to the primary purpose of assuring an adequate and dependable supply for the fluid market.

The marketing performance standards also serve to minimize the effects of regulation on handlers who have only a minor proportion of their distribution in the regulated market. Such handlers would be subject to partial regulation in the manner described in subsequent findings and conclusions.

Any plant, wherever located, may qualify as a pool plant if it meets the marketing performance standards for regulation. These standards are equal for all plants performing the same function. The performance standards for regulation of a plant are one of the essential means of assuring the regulated market of adequate and dependable supplies of milk. This is accomplished by requiring that the plant distribute milk in the market or ship milk to the market.

Pool distributing plant. Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards have been provided for them. A "distributing plant" should be defined as a plant at which fluid milk products are processed and packaged and from which Grade A fluid milk products are disposed of during the month on route(s) in the marketing area.

To qualify as a pool plant, a distributing plant would be required to meet performance standards both as to disposition in the marketing area and the proportion of the plant's supply used in fluid disposition. As to disposition in the marketing area the plant should be required to dispose of on routes in the marketing area not less than 10 percent of its total receipts of Grade A milk from dairy farmers (including such milk disposed of through a distribution point) and Grade A milk received directly at the plant from cooperative associations in their capacity as handlers. Milk diverted by a plant

operator is part of the supply accounted for at the plant and should enter into the computation of pool qualification. On the other hand, milk diverted from the plant of another handler by a cooperative association, for its account, should not be included. The plant operator may have no knowledge or control over the quantities of milk diverted from his plant by the cooperative association.

An alternative pooling standard as to disposition in the marketing area would be a daily average during the month of not less than 7,000 pounds per day of fluid milk products on routes in the marketing area. This latter standard based on a specified minimum volume of distribution is identical to that presently used in the Suburban St. Louis order. Producers proposed that this alternative standard also be made a provision of the proposed Central Illinois order. A plant meeting either the 7,000 pounds per day standard or the 10 percent standard is sufficiently identified with the market to be pooled if it also meets the fluid utilization requirement described in subsequent findings. Also such a plant is an important competitive factor in the market and should be subject to regulation. Without such a fixed figure for a standard, a plant with very substantial distribution in the marketing area could remain unregulated if such distribution was nevertheless less than 10 percent of its specified receipts.

Only those plants primarily engaged in route distribution of fluid milk products should be qualified as pool distributing plants under this definition. The plant's total route distribution both inside and outside the marketing area should be equal to not less than 50 percent of its receipts of Grade A milk from dairy farmers and from cooperatives as handlers during each of the months of August through February. During other months, route distribution should be equal to at least 40 percent of such Grade A receipts. The seasonal change in requirements is necessary because of the seasonal increase in milk receipts which some of the distributing plants must handle as reserve milk.

The above pooling standards for a distributing plant are identical to those provided in the present Suburban St. Louis order. Since the two markets are closely associated, the use of similar pool plant provisions will facilitate coordination of marketing of milk from the same supply areas.

The proposal of the eight cooperatives differed from the above. They proposed that a distributing plant be required to have total Class I distribution equal to 50 percent of its receipts from dairy farmers and cooperative associations every month. This should not be adopted. The same proposal with respect to the proposed Southern Illinois order is also denied in the findings and conclusions in that order. In the Southern Illinois order, the present pooling requirement of 50 percent Class I utilization in the months of August through February and 40 percent in other months is continued. In this market there are several handlers who will face the problem of handling much of their reserve milk either in their distributing plants or as diversions from such plants. Without more precise data as to the ability of such operators to meet the higher percentage, it is sounder to apply a 40 percent requirement in March through July.

Pool supply plant. The order should also provide a definition of "supply plant." A supply plant would be defined as a plant from which fluid milk products acceptable to the appropriate health authority for distribution in the marketing area as Grade A milk are shipped during the month to pool distributing plant(s).

To qualify for pool plant status on a month-to-month basis, a supply plant should be required to ship an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and from cooperative associations as bulk tank handlers, to pool distributing plants which have at least 50 percent Class I use of the total of such milk and producer milk receipts during the months of August through February and 40 percent in other months. Any supply plant meeting the above requirement during each of the preceding months of August through February would be granted pool status during the following months of March through July without specified shipments. Such pool status would be automatic unless the operator of such plant notifies the market administrator in writing before the first day of any such month that he desired to withdraw his supply plant from pooling. The plant would thereafter be a nonpool plant until it again met the shipping requirements set forth above.

Such varying requirements for a supply plant are appropriate in view of the seasonal changes in production which normally occur. While the Class I requirements of the distributing plant to which the supply plant ships may remain relatively constant throughout the year, milk receipts at both plants would normally be heavier in the flush production months. To avoid uneconomical transportation, the larger share of reserve milk would normally be held in the supply plant. In this situation the milk received at the supply plant is part of the market reserve supply which must be available to assure an adequate supply for the full year.

The supply plant standards adopted herein differ somewhat from those presently in the Suburban St. Louis order. The latter requires a supply plant to ship 50 percent of receipts on a month by month basis, and provides pooling without shipments in the months of February through August if the plant qualified in the preceding months of September through January. Elsewhere in this decision, findings and conclusions with respect to the Suburban St. Louis order adopt supply plant provisions similar to those here adopted for Central Illinois.

Proponents of supply plant provisions did not identify any existing supply plants expected to become fully regulated by the Central Illinois order. Although one handler discussed supply plant sources, the information provided was not sufficient to indicate whether such plants would qualify as pool supply plants. The proposal of the eight cooperative associations contained the highest pool plant requirements. These would have required 50 percent of receipts to be shipped in every month except May and June. Such high requirements might impose extreme difficulty for a bona fide supply plant attempting to qualify on a year around basis and should not be adopted.

A handler who procures milk from plants in Wisconsin requested shipping requirements of 60 percent in September, October, and November, 50 percent in December, January, and February, and 30 percent in March, April, and August. The plant then would be pooled without shipment in May, June, and July if it qualified in prior months.

The supply plant standards adopted herein differ from the handler's proposal principally in requiring that the plant qualify by actual shipments in August as well as the months of September through February at a level as high as 50 percent of receipts. There is no need to provide a smaller percentage in the months of March and April. During these months, it is very unlikely that a new supply plant would be needed in the market. If the market were sufficiently short in these months that an additional supply plant were needed, such plant would normally be able to meet the 50 percent requirement for the month.

It is intended that the following quantities of Grade A receipts be included in the determination of pool status for a supply plant:

(1) Direct receipts of Grade A milk from dairy farmers and from a cooperative in its capacity as a handler on bulk tank milk it delivers from farms to the plant. Grade A milk received at the plant through a reload point (described in subsequent findings) should also be included in such receipts; and

(2) Milk diverted from such supply plant by the handler in his capacity as operator of such supply plant.

Milk diverted from such a supply plant by a cooperative association, for its account, should not be included in Grade A receipts in measuring such a plant's pool status for the reasons previously stated.

Reload point. One reloading facility presently serving the market is located at McConnell, Ill. The need for definition of such a facility, otherwise termed "reload point," so as to differentiate it from a supply plant was considered.

A reload point is an assembly point where milk from smaller farm tank trucks is pumped over into larger over-the-road tankers. These tankers are capable of traveling longer distances with a larger pay load. The operation of a reload point is distinguished from a supply plant in that a reload point has no facilities for either receiving, holding or processing milk. Reload facilities are subject to approval by health authorities for transfer of milk from one tank truck to another and for the washing of tank trucks. The Central Illinois order should provide a definition of "reload point" identical to that contained in the present Suburban St. Louis order.

Milk moving through a reload point should be priced as a direct delivery to the plant. By excluding reload points from the supply plant definition, the definition of "reload point" will assure producers whose milk is assembled at distant reload points and delivered directly to plants in the marketing area that they will receive the higher blend prices applicable at such plants.

Reloading facilities may be on the premises of a plant having equipment for receiving, cooling, storing and processing of milk. If the plant equipment is in current use, the facility should be considered a supply plant rather than a reload point, since no distinction could be made between milk which is reloaded and that which is transferred. One reload point presently operated was described as being located on premises of a plant containing receiving and holding equipment. The holding tanks, however, had been disassembled and equipment at this location was not being used for holding or processing of milk prior to its final disposition. It was stated that the facilities are used only for the transfer of milk from one tank truck to another and for the washing of such trucks. Under these circumstances the reloading facility should not be excluded from the reload point definition. The order should contain a proviso to the effect that so long as such equipment is not in current use, the facility may be considered a reload point.

Plants subject to other orders. At times a plant qualifying as a fully regulated distributing plant under this order may similarly qualify under another order. Most orders provide that a plant will be regulated under the order for the marketing area in which it has the most Class I sales. Where there is nearly equal distribution in both areas, there is a potential for frequent shifts between regulations which may be disturbing to both producers and handlers. In such cases differences in pricing, seasonal payment plans, and different location differentials could disrupt the normal relationships of producers and handlers to the market.

To minimize unnecessary shifts in plant regulation, the order should permit a distributing plant which was pooled under this order in the most recent months, to retain pool status under this order until the third consecutive month in which greater disposition is made in the other marketing area. This provision, however, would be subject to the limitation that the provisions of the other order release it and do not make pooling mandatory under that order.

Such provision for temporarily maintaining the regulation of the plant under the order where it has previously been regulated will afford the handler reasonable notice that the regulation of his plant is shifting from one order to another. This will provide him an opportunity to make adjustments in his business if he desires to do so.

On the other hand, it is appropriate that for the longer term the plant be regulated in the market with which it has the larger measure of association. This brings the pricing of milk handled in such plant in line with the pricing in the market where it disposes of most of its fluid sales. Without such a rule a plant operator could seek advantage through becoming regulated in a market on the basis of minor sales while selling most of his milk in another market.

Provision should also be made for exempting a plant from regulation under this order until the third month in which it disposes of a greater proportion of milk in the Central Illinois marketing area than in the marketing area of the order to which it has been subject. This will provide compatible language with such other orders containing a provision similar to the one herein recommended.

The operator of a plant regulated by another order should report all receipts and disposition of skim milk and butterfat to the market administrator of this part at such time and in such manner as the market administrator may require. Such a handler should allow verification of such reports by the market administrator if deemed necessary.

Producer milk. Producer milk as defined herein would include all milk produced by producers which is received at pool plants or diverted from pool plants under appropriate limitations.

Since producer milk is handled in several different ways, it is necessary that the definition be in terms of these several methods of handling, including: (1) Milk received at a pool plant from producers or cooperatives as bulk tank handlers; (2) milk received by a cooperative association as a bulk tank handler from dairy farmers, and not delivered to pool plants but lost as shrinkage; (3) milk diverted from pool plants to nonpool plants not regulated by any order; (4) milk diverted from a pool plant to another pool plant; and (5) milk diverted from a pool plant to a plant regulated by another order. These items are discussed as follows:

(1) and (2) Milk of producers received at a pool plant from producers' farms would be producer milk including milk so received for which a cooperative acts as a bulk tank handler. In the latter case, the cooperative association is the first receiver of the milk as producer milk, and the plant operator is the second receiver of such milk as producer milk. Some of the milk picked up at the farm by the cooperative association as a bulk tank handler is lost in handling and not delivered to the plant. This loss is accounted for by the association as shrinkage.

(3) Producer milk diverted from a pool plant to a nonpool plant not fully regulated by any order would be producer milk subject to certain limitations. Such diversion of producer milk may be either by the plant operator, or by a cooperative association, not as a plant operator, diverting the milk of its members.

The need for diversion of a producer's milk has been discussed under the definition of producer. It is necessary, however, that the order contain limitations as to the extent to which a producer may be diverted so that only milk which is genuinely associated with the market will receive the market uniform price.

The eight cooperative associations proposed that the order permit diversion of a producer's milk to nonpool plants in an amount equivalent to a maximum of 8 days production during all months except May and June. In May and June diversion would be permitted on an unlimited basis. Several handlers proposed, on the other hand, that the provisions of the Suburban St. Louis order with respect to diversions to nonpool plants be extended to the proposed Central Illinois order. The Suburban St. Louis order now provides for unlimited diversion of a producer's milk to nonpool plants during the 7 months of February through August. During other months such diversion is limited to not more days of production by the producer than is physically received at a pool plant.

The provisions for diversion of producer milk should be related to the reserve needs of the market. Producers associated with the Central Illinois market are not expected to produce locally a large quantity of milk in excess of the market's fluid requirements. As indicated earlier, the area proposed for regulation generally lacks a full supply of locally produced milk on a year-round basis. It would not be necessary that more than a small part of the total supply be diverted except during the months of highest seasonal production. In these circumstances diversion of 8 days of production of a producer during most months would provide adequate flexibility for handling market reserve milk. Unlimited diversion allowance should apply only in the months of highest production which are expected to be May and June. Much of the diversion of producer milk would be handled by cooperative associations which endorsed this type of provision.

Producer milk which is diverted to a nonpool plant (not an other order plant) beyond a certain distance should be deemed to have been received for pricing purposes by the diverting handler at the location of the nonpool plant to which diverted. Milk diverted to a nonpool plant located not more than 110 miles from Peoria City Hall would be deemed to have been received by the diverting handler at the location of the plant from which diverted. This provision is necessary to maintain the integrity of the order pricing and prevent advantage to a handler or a group of producers by diversions to distant nonpool plants.

Without such provision a handler could associate distant producers with marketing area pool plants by a few days delivery and then divert them for the remainder of the month to a distant nonpool plant in the vicinity of their farms. This arrangement would give such producers the marketing area uniform price although their milk is being delivered to a distant nonpool plant at which a location differential would apply if it were a pool plant. In effect the producers would be paid as if their milk were delivered to the market when ac-

tually it is not so delivered. Within the limitation of 110 miles, however, diverted producers should receive the uniform price at the plant with which they have established a regular association. This limitation differs from that recommended under the proposed Southern Illinois order. Circumstances in the Central Illinois order require diversion to greater distance. The limitation on the number of days of production diverted in most months assures that association with the plant from which diverted will be substantial.

(4) Producer milk which is diverted by the operator of a pool plant to another pool plant will remain the producer milk of the diverting handler to be accounted for and paid for by him.

The diversion of milk between pool plants, for not more days of production of a producer's milk than is physically received at the pool plant(s) from which diverted, would serve primarily to aid in the handling of the reserve milk of the diverting handler. Not all pool plants have manufacturing facilities to handle such reserve milk. A plant operator may wish therefore to divert his reserve milk to another pool plant where it may be used in manufactured dairy products.

Treating such shifting of producer deliveries as a diversion from the first plant avoids interfering with the pool plant qualification of the second plant. Also, it permits the convenience of retaining the diverted producers on the payroll of the diverting handler for the entire month.

For pricing purposes, the producer's uniform price would be established at the plant to which his milk is physically delivered. For pricing to handlers, the Class I price would be established at the plant where each quantity of milk so classified is physically received. This method of pricing milk to handlers would assure that Class I utilization of producer milk by a pool handler would be priced uniformly according to the location of the plant where physically received from the farm.

The cooperative associations proposed that milk diverted between pool plants be priced at the plant with the lower uniform price. At the same time they proposed to charge the diverting handler the higher of the applicable Class I prices at the two pool plants. They considered this necessary to prevent dilution of the pool returns to producers in a situation where the hauling cost between the farm and the plant at which the milk is physically received is less than the price differential between the two locations. They contended that diversion under such circumstances would produce a windfall to the diverting handler and encourage the misuse of diversion for the purposes of obtaining from the pool a higher blend price for certain producers at the expense of others.

It is concluded that such a provision as proposed by producers is not necessary. The provisions herein recommended for pricing diverted milk will forestall any advantage to handlers. It will also provide blend price to producers according to the location of the plant where their milk is received.

(5) Producer milk diverted as Class II milk from a pool plant to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provisions of another order should also (under specified conditions) be considered to be producer milk under the Central Illinois order. A limitation on such diversions of not more days of production of producer milk than is physically received at a pool plant(s) should be applicable. Any milk diverted in excess of the limitation expressed above would not be producer milk under the Central Illinois order. In addition, such milk designated as having been diverted to other order nonpool plant, would not be producer milk under this part if such other order required such milk to be producer milk under that order. Since such milk would be fully subject to pricing and pooling under such other order, this order should exclude it from pooling and pricing.

Further, if a handler reported milk as so diverted which nevertheless was classified as Class I under the other order, it would be necessary that the report be corrected to eliminate such milk since it would not fit the definition of producer milk.

As indicated above, the Central Illinois order should provide for milk to be diverted from another Federal order market to a pool plant and still permit such milk to participate in the pooling arrangement of the other order. This is accomplished in the proposed order by excluding from the producer milk definition milk so received from an other order plant at which such milk would be fully subject to pricing and pooling under such other order.

The uniform price to producers for milk diverted from a pool plant to a plant regulated under another order should be the price applicable at the location of the plant to which diverted.

A similar provision is provided in the proposed Southern Illinois order. This will permit the most efficient allocation of milk supplies between the two proposed Illinois regulations as well as with the St. Louis Federal order.

Other source milk. A definition of "other source milk" is necessary to designate one of the several categories of milk receipts at a regulated plant.

Other source milk should include all skim milk and butterfat contained in or represented by: (1) Fluid milk products received by the handler during the month except: producer milk, fluid milk products from pool plants, and inventory of fluid milk products on hand at the beginning of the month; (2) products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month; and (3) any disappearance of nonfluid milk products not otherwise accounted for under the order.

Since a regulated plant may receive milk other than producer milk, and all types of receipts may be commingled in the plant it is necessary that all receipts of milk and dairy products be reconciled with the disposition records of the plant. This is necessary to arrive at the classification of producer milk. The various categories of receipts (producer milk, other source milk, and milk from other pool plants) would be treated differently under classification rules.

It is likewise necessary that the handler be required to account for other source milk in the form of nonfluid dairy products which may be converted into Class I products. Without such accounting, a handler, by failing to keep records of the nonfat dry milk and similar products which can be reconstituted into skim milk or other fluid products, could gain a competitive advantage over other handlers in the market.

Fluid milk product. A definition of "fluid milk products" is provided in the order to implement the drafting of the classification provisions of the order. The term is intended to include those products which are required to be derived from milk and milk products from approved sources of supply.

Under the proposed definition herein provided, a fluid milk product includes milk, skim milk, buttermilk, plain or flavored milk, and milk drinks (unmodified or fortified) including "dietary milk products" and reconstituted milk or skim milk, concentrated milk not in hermetically sealed containers, cream (sweet or sour) and mixtures of cream and milk or skim milk, but not including the following: Aerated cream products, frozen storage cream, cultured sour cream mixtures other than sour cream, eggnog, yogurt, frozen dessert mixes, evaporated and condensed milk, and sterilized fluid milk products in heremetically sealed containers. In the case of fortified fluid milk products, the definition would include that portion of the product equal to the weight of an unfortified product of the same nature and butterfat content.

Route disposition. Route disposition should be defined as a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk products to a retail or wholesale outlet other than a milk plant. A delivery through a distribution point should be attributed to the plant from which the Class I milk is moved through the distribution point to wholesale or retail outlets.

Miscellaneous definitions. Additional definitions such as "Act," "Secretary," "Department," "person," "cooperative association," and "Chicago butter price" should be included in the order for brevity and clarity in describing the operation of various order provisions. They are self-explanatory or have been heretofore discussed.

(b) *Classification of milk.* Producer milk received by handlers should be classified in two classes, according to use. Class I milk should include those forms of disposition intended for the Grade A market. The high quality requirements for the fluid consumption and other Grade A use, as compared to milk for

manufacturing use, are specified in sanitary regulations of State and local governmental authorities. The extra cost of producing such higher quality milk and delivering it to market requires that the price for milk used in Class I be considerably above the manufacturing milk price. The definition of Class I use of milk in the manner described therefore provides the means of returning to producers the higher price according to the quantity of milk so used.

Class II milk utilization, on the other hand, is utilization for purposes to which Grade A requirements do not apply. In such uses milk from producers competes with ungraded milk from other sources and in this use producer milk therefore has only a manufacturing milk value.

In conformance with these objectives, milk and milk products received by handlers should be classified on the basis of the form in which, or the purpose for which used or disposed of by the handler. The skim milk and butterfat received in milk and milk products should be classified separately since the proportion of skim milk and butterfat in products of disposition varies.

Furthermore, milk is received by handlers from various sources, including dairy farmers, other regulated handlers, and unregulated sources. In many instances milk from all these sources is commingled in handlers' plants. It is necessary, therefore, to have a plan for allocating the uses of milk to each of the various sources of supply in order to establish the classification of producer milk and to apply the classified pricing plan.

Class I milk. The milk product dispositions included in Class I milk are those required by health authorities in the marketing area to be produced from "Grade A milk."

Class I milk, therefore, is basically skim milk and butterfat disposed of by a handler in the form of fluid milk products as previously defined, with limited exceptions.

The measurement of the quantity of Class I disposition of a particular milk product is normally the actual weight of the product as it leaves the handler's plant. In a few instances, however, the Class I quantity is more, or less than such weight.

One exception is concentrated milk, which is produced by removing a large portion of the water content from whole milk. This product is intended for fluid consumption, and may be restored to the original whole milk form by the consumer by addition of water. This is a Class I product for which the quantity to be accounted for is the quantity of milk normally used to produce it. Standard conversion factors for calculating the original volume would be applied. Accounting for such products on the basis of original volume, including all the water originally associated with the milk solids, is necessary to assure equity among handlers and to return to producers the full use value of their milk.

Reconstituted milk or skim milk presents a similar problem of accounting. Reconstitution is a process which may be carried on in a handler's plant by mixing dry milk solids or condensed milk with water so the resulting product is similar to fluid whole milk or skim milk. Partial reconstitution may be carried out by adding milk solids and water to milk or skim milk.

Class I disposition of reconstituted milk or skim milk should be accounted for in a quantity which includes the volume of water originally associated in whole milk with the milk solids used in process of reconstitution. This is necessary for the same reasons as in the case of concentrated milk.

Fortified fluid milk products are another instance in which the weight disposed of is not precisely the quantity of Class I disposition to be accounted for. Fortified fluid milk products are prepared by the addition of nonfat solids to milk or skim milk to yield a finished product of higher than normal nonfat solids.

To maintain proper accounting for fortified fluid milk products the nonfat milk solids added to such items should be converted to their skim milk equivalent. This is necessary to insure uniformity of application of the accounting system. It is not necessary, however, to price as Class I all the water originally associated with the added solids. The addition of the solids used in fortification cannot be considered as displacing producer milk in Class I except to the extent that the volume of product is increased. The addition of solids to make a more desirable product may in fact increase the sales of producer milk, and in any event would not displace producer milk in Class I beyond the minor increase in volume which results.

In the case of fortified fluid milk products the skim milk to be classified as Class I milk should be only that contained in an equal volume of unmodified product of the same nature and butterfat content, excluding the dry weight of any nonmilk additive such as flavoring, etc. The skim milk equivalent of the nonfat milk solids not classified as Class I milk should be classified as Class II milk.

It is necessary that the handler submit reports sufficient to reconcile all of his receipts of milk and dairy products with the disposition from his plant(s). If receipts and disposition cannot be reconciled from such reports, it would be necessary that the handler be responsible for any unaccounted for receipts or disposition. If disposition is less than receipts, the question arises as to whether there are dispositions not disclosed on reports. In order to insure responsible reporting and recordkeeping and equity among handlers, such discrepancy where disposition is less than receipts should be classified as a Class I quantity, except for allowable shrinkage as explained in latter findings.

Class II milk. Class II milk would include all skim milk and butterfat used to produce any product other than a fluid milk product. It thus would include milk used in manufactured products such as ice cream, ice cream mix, frozen desserts, cottage cheese, evaporated and condensed milk, nonfat dry milk and butter and cheese as well as others.

Besides use in manufactured dairy products, which composes the bulk of Class II use, it would also include shrinkage with certain limits, disposal in fluid form for livestock feed, fluid milk products dumped, and fluid milk products in bulk held in inventory at the end of the month.

Butterfat and skim milk used to produce Class II products should be considered disposed of when so used. Handlers will need to maintain production records of such products to establish use in Class II.

Shrinkage. In the course of normal receiving, processing and packaging fluid milk products, some loss of skim milk and butterfat is experienced and is referred to as "shrinkage." In order to assure complete accounting, the handler must establish the quantity of actual loss of skim milk and butterfat. Since shrinkage represents disappearance of milk for which no return is realized, it should be considered as Class II milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records.

The maximum shrinkage allowance in Class II at each plant should be 2 percent of milk from producers plus 1.5 percent of milk received in bulk tank lots from other plants or from a cooperative association which elects to be the handler for such milk. However, if the handler operating the pool plant which received the milk from the cooperative association as a handler files notice with the market administrator that he is purchasing such milk on the basis of farm weights the applicable percentage should be 2 percent.

The lower shrinkage allowance of 1.5 percent of milk received in bulk tank lots from other handlers recognizes that part of the handling in which shrinkage occurs has taken place prior to receipt at the plant. Milk collected at the farm in bulk tank trucks is measured at the farm. Some loss would normally occur during the transfer operation between the farm and the plant.

The provision of 2 percent shrinkage allowance for the entire receiving and processing operation is considered reasonable under normal circumstances. The division of the total allowance into 1½ percent for processing and one-half of 1 percent for receiving is in accordance with experience and is used in other Federal orders. It is recognized that the greater share of the shrinkage occurs in the processing operation. One-half of 1 percent has been found adequate in normal experience in the transfer of milk from farms to plants in tank trucks.

To provide equitable application of shrinkage provisions to all handlers who may have various types of operations and various kinds of milk receipts, the rate of 1.5 percent shrinkage allowance should apply to all whole milk receipts in bulk tank lots, whether from other pool plants, unregulated plants or a cooperative association acting as a bulk tank handler. The only exception to this would be in the case of receipts of other source milk for which Class II

utilization is requested. In the latter case since the entire receipt is for Class II use, there is no need to establish a limit of shrinkage that may be classified as Class II.

In computing a handler's total shrinkage allowance, 1.5 percent of whole milk disposed of in bulk tank lots to plants of other handlers by transfer should be deducted. This is necessary to carry out the principle of allowing one-half of 1 percent for the receiving operation. The second plant would be allowed, as stated previously, 1.5 percent on the transfer of milk. Such deduction at transferor plant would not apply to a processed product such as skim milk.

The allowance of one-half of 1 percent on milk transferred in tank trucks from farm to plant would apply also in the case of milk diverted in tank trucks. An exception would be made if the plant operator to whom the milk is diverted purchased the milk on the basis of farm weights and tests.

To assure an equitable assignment of total shrinkage, it should be prorated to (1) those categories of receipts on which the above described limits apply and (2) other receipts in fluid form to which specific shrinkage limits do not apply.

Inventories. The order should provide that inventory of bulk fluid milk products on hand at the end of the month should be classified as Class II milk pending reclassification of the following month.

Handlers have inventory of milk and milk products at the beginning and end of each month which must enter into the accounting for current receipts and utilization at the plant. The accounting procedure can be facilitated by providing that inventories of bulk fluid milk products on hand at the end of the month be classified as Class II milk.

In the following month such inventories would be subtracted, under the allocation procedure, from any available Class II milk. Any excess over available Class II milk should be subtracted from Class I milk. The higher use value as Class I thus indicated should be reflected in returns to producers in that month. This would be at the rate of the difference between the Class II price in the first month and the Class I price in the second month.

Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. This classification conforms with the ultimate utilization of most of the packaged fluid milk products in inventory. This results in less adjustment in classification and handlers' obligations than if classified in Class II as in the case of bulk milk.

To insure that all handlers pay the current month's Class I milk price for fluid milk disposed of during the month, it is provided that if the Class I milk price increases over the previous month, the handler will be charged the difference between the Class I milk price for the current month and the Class I milk price for the preceding month on the quantity of ending inventory assigned to Class I milk in the preceding month. Likewise, if the Class I milk price decreases, the handler will receive a corresponding credit.

The allocation section of the order should provide that inventory of such packaged fluid milk products on hand at the beginning of the month be subtracted from Class I milk utilization immediately after the allocation of shrinkage and packaged fluid milk products from other orders and before making the other assignments therein provided. Inventory of fluid milk products in bulk form would continue to be handled as under the present provisions of the order.

Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for as Class II use when used to produce a manufactured dairy product, such skim milk and butterfat should not be included in inventory.

Inventories of fluid milk products and Class II products on hand at the beginning of the first month in which the order becomes effective or during any month in which a plant becomes regulated for the first time should be allocated to any available Class II utilization of the plant during the month. This procedure will preserve the priority of assignment to current receipts of producer milk and to current Class I utilization of the plant.

Other Class II disposition. Class II milk disposition would include certain dispositions in the form of fluid milk products, specifically (1) fluid milk products disposed of in bulk to commercial food processors and used in a food product prepared for consumption off the premises; (2) fluid milk products dumped after authorization by the market administrator ; (3) fluid milk products accounted for as disposition for livestock feed; (4) fluid milk products on hand at the end of the month; and (5) that portion of "fortified" fluid milk products not classified as Class I.

Class II classification of dumpage and animal feed recognize that such disposition of fluid milk products represent a value considerably less than normal fluid milk disposition on routes to retail and wholesale outlets.

Since dumping involves no transactions with others, the market administrator must have opportunity to verify the product and quantity, and such disposal should be only after his authorization.

The proposal to limit the skim milk and butterfat disposed of as animal feed during the month to the quantities of fluid milk products in route returns should not be adopted.

Presently the Suburban St. Louis order permits Class II classification for all skim milk and butterfat accounted for as disposed of for livestock feed. In most instances, it would be expected that fluid milk products disposed of for animal feed would be primarily nonsalvageable route returns. In some instances, however, there may be small quantities of skim milk and butterfat in fluid milk products which during processing becomes nonsalable for human consumption. It is reasonable that these quantities also be classified as Class II if disposed of as livestock feed. A plant operator should maintain sufficient records to establish in every instance the quantities of skim milk and butterfat involved, and show a written receipt for every disposition as livestock feed.

Fluid milk products disposed of to commercial food processing establishments for use in preparation of food products also should be Class II milk.

Producers proposed that fluid milk products dumped during the month be allowed as Class II only as to the skim milk portion. They contended that in most cases the butterfat in fluid milk products to be dumped can be salvaged and reused in other Class II products. Handlers on the other hand contended that many circumstances arise when it is impractical to separate small quantities of butterfat from fluid milk products prior to their being dumped. They pointed to other Federal orders which permit the dumpage of both the skim milk and butterfat portions of fluid milk products.

It is concluded that both the skim milk and butterfat portions of fluid milk products should be permitted to be dumped and specified as a Class II use, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping procedure.

Proof of class use. Except for the quantities of Class II shrinkage provided for in the order, all skim milk and butterfat for which a handler cannot establish utilization must be classified as Class I milk. This provision is necessary to remove any advantage that might accrue to handlers who fail to keep complete and accurate records. The burden of proof should be on the handler to establish the utilization of any milk as being other than Class I milk.

Transfers and diversions. Milk transferred from a pool plant to another plant should be classified in accordance with specific rules.

The rules of classification herein provided would apply to transfers to other pool plants or to nonpool plants, and to milk diverted from the farm to nonpool plants or to pool plants of other handlers.

Fluid milk products transferred or diverted from a pool plant to the pool plant of another handler should be classified as Class I milk unless utilization as Class II milk is claimed by both handlers on reports submitted for the month to the market administrator. However, sufficient Class II utilization must be available at the transferee plant for such assignment to Class II after allocation of receipts of unregulated milk, other order milk, inventory and shrinkage. Similarly, sufficient Class I milk must be present in the transferee plant to cover Class I classification of the transferred milk.

If the shipping plant receives during the month other source milk of the type to which a surplus value applies (such as nonfat milk solids) the skim milk and butterfat in fluid milk products transferred should be classified so as to allocate the least possible Class I utilization to such other source milk. Also, if the shipping handler receives other source

milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such other source receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant. These rules are necessary to provide the same kind of classification for transferred fluid milk products as for utilization within a pool plant.

Fluid milk products transferred or diverted in bulk to a nonpool plant (not an other order plant or producer-handler plant) located not more than 350 miles from the City Hall in Peoria, Ill., should be classified as Class I milk unless the handler claims Class II classification and specified conditions are met. The operator of the nonpool plant should maintain adequate books and records showing utilization of all skim milk and butterfat received at the plant. Further, if requested the operator should make these books and records available to the market administrator for purposes of verifying such receipts and utilization. This verification by the market administrator is necessary to insure proper application of the classification procedures of the order.

If the above conditions are met, classification of the transferred or diverted milk would be made in accordance with the following procedure:

Receipts of packaged fluid milk products at the nonpool plant from pool plants or other order plants would be first assigned to Class I in the nonpool plant. Then, if the nonpool plant makes any Class I disposition on routes in this marketing area, this Class I should be assigned first to fluid milk products transferred from pool plants, then pro rata to receipts from other order plants, and finally to receipts from dairy farmers who the market administrator determines constitute the regular source of Grade A milk for the nonpool plant. If the nonpool plant makes any Class I disposition on routes in the marketing area of another Federal order, this should be assigned first to fluid milk products transferred or diverted from plants fully regulated by that order, then pro rata to fluid milk products received from plants regulated by this and all other Federal orders, and thereafter to the nonpool plant's regular Grade A dairy farmer supply as determined by the market administrator. Any Class I utilization remaining in the nonpool plant after the above assignment should be assigned first to the plant's regular Grade A dairy farmer supply and then pro rata to unassigned receipts from plants regulated by this order and other orders.

After the preceding assignments are made at the nonpool plant, any remaining receipts of bulk fluid milk products from pool plants should be classified in sequence starting with Class II milk if the shipping handler requested classification under this procedure.

This method for classifying transfers and diversions of milk to nonpool plants provides equitable treatment for milk of order handlers as well as other order handlers in the classification of milk. Further, it gives priority to dairy farmers directly supplying a nonpool plant with respect to sales outside regulated areas. The proposed method of classification at the same time allows orderly disposition of reserve supplies of milk which cannot economically be handled at pool plants.

Fluid milk products transferred or diverted to a nonpool plant (not an other order plant nor a producer-handler plant) located more than 350 miles from the City Hall in Peoria, Ill., should be classified as Class I milk. Since ample facilities are available within this distance to handle reserve supplies of pool plants, it is not necessary that the market administrator be called upon to verify utilization moving beyond such distance.

An exception should be made for cream moved to a nonpool plant located more than 350 miles from the City Hall in Peoria. If Class II classification is requested, the handler transferring the cream should be required to establish that it was transferred without Grade A certification, that each container was labeled or tagged to indicate that the contents were for manufacturing use only and that the shipment was so invoiced. Cream, being of less bulk than whole milk, may be shipped economically for manufacturing purposes to outlets considerable distances from the marketing area. If cream is moved in accordance with the above requirements it will not be necessary for the market administrator to travel unnecessary distances to verify the utilization of such cream.

The order also provides for transfers of fluid milk products to other order plants. The classification of such milk is covered in the findings with respect to allocation.

Allocation. The value of producer milk is established on the basis of its classification and the class prices. Since handlers may receive milk from several sources besides producers, the order must provide a method of assignment of receipts from all sources during the month to Class I and Class II.

The system of allocating handler's receipts to the two classes as herein recommended, is virtually the same as that adopted in the decisions of the Assistant Secretary issued June 19, 1964, for 76 milk orders, including the Suburban St. Louis order and all other Federal orders except those in the northeast.[1] These decisions were designed to integrate into the regulatory plan of each of the Federal orders milk which is not subject to classified pricing under any order, and also to apply the regulatory plan of each of the orders to milk received from plants regulated under another order. Inasmuch as those decisions set forth the standards for dealing with unregulated milk under Federal orders generally, it is necessary that the general system of allocation under this order be the same. Also, the treatment of other order milk should be the same as the plan included in those decisions so as to have a coordinated system of regulations on movements of milk between Federal order markets.

Producers' proposal recognized the necessity for such coordination and contained allocation provisions identical to those contained in the aforementioned decisions.

Milk received at regulated plants from unregulated plants. When unregulated milk eligible for distribution in the market in fluid form is received by a regulated handler at his pool plant, provision must be made for its allocation to the total available classification of the pool plant, and for providing an appropriate rate of payment to the producer-settlement fund on any such milk allocated to Class I.

The order should provide that fluid milk products moved from an unregulated plant to a pool plant be classified as Class II milk if so reported by the operator of the regulated plant. Milk may be purchased by a pool plant operator from an unregulated plant either for use in his manufacturing operation or in connection with his Class I requirements. When the purchase is for manufacturing, the order should accommodate this by providing that such milk be allocated to the lowest price class utilization in the pool plant. This treatment of unregulated milk received at pool plants will further serve to accommodate unregulated plants which have surplus milk but do not have manufacturing facilities, since it will make available as an outlet the manufacturing facilities of pool plants without involving the unregulated plant in the regulation. When, however, manufacturing utilization in a regulated plant is insufficient for the assignment of all fluid milk products from unregulated plants to the agreed manufacturing use, the remainder, of course, must be allocated to Class I.

Other categories of milk receipts assigned first to Class II use (down allocated) should include receipts from producer-handlers; receipts without Grade A certification, and reconstituted milk. The reasons for such assignment are explained in subsequent findings on these specific types of receipts.

With respect to the general category of milk received from unregulated plants (not producer-handlers, however) the order should provide that (within limits) unregulated milk received at a pool plant, which is not specifically designated for manufacturing use, be assigned a classification which is pro rata to regulated milk received by the operator of such plant. This should be provided because classification of bulk milk cannot be determined on the basis of its inherent characteristics as either Class I (i.e., in bottles) or as surplus (i.e., as in manufactured products). Its classification depends upon its utilization by the handler who receives it. Unless the regulated handler accepts the milk for Class II use, a method as described herein must be provided for assigning the unregulated bulk milk to classes of use. By assigning it pro rata with regulated milk (with-

[1] Official notice is taken of the decision (29 F.R. 9109) in which is included the amendment affecting the Suburban St. Louis milk order.

in limits), its indeterminate character as Class I or II will be recognized up to the limit provided.

A limit must be placed on the amount of unregulated milk which may share full classification with regulated milk. The receipt of unregulated milk in a regulated handler's operation is always a source of danger to the regulatory plan. Handlers often obtain unregulated milk because it is a cheaper source of supply than regulated milk. Unless some limitation is placed on the volume of unregulated milk that may be prorated, a handler with a supply of regulated milk adequate for his Class I requirements could acquire cheaper unregulated milk to increase his manufacturing uses. This milk would share in his Class I utilization while an equal volume of regulated milk would be assigned to the expanded surplus use. This would impair the effectiveness of the regulation.

The limit placed on the amount of unregulated milk to be assigned pro rata with regulated milk is such that when, as a result of proration or assignment, as much as 20 percent of all regulated milk in the handler's plants is assigned to Class II, all additional unregulated milk will then be assigned to Class II. A reserve of milk for fluid requirements on a marketwide basis more or less than 20 percent of all handlers' receipts may be required, depending upon seasonal and other considerations. An individual handler associated with a regulated fluid market (whose main purpose is to furnish Class I milk to the market) will not need unregulated milk for the purpose of maintaining an adequate supply to service Class I sales in amounts which will increase his reserve above 20 percent of his total receipts in any given month. Even though a situation could conceivably arise where, because of the disruption of normal supplies, a handler receives milk from unregulated sources in excess of the quantities that may be prorated, the attainment of effective regulation nevertheless requires the imposition of this limit.

It is provided that in assigning unregulated bulk milk for purposes of classification, the overall utilization of the handler at all of his plants regulated under the order[3] (rather than the utilization at a single plant) should be used. This is necessary for the same reasons, set forth later in this decision, which apply to receipts of milk from plants regulated by other orders.

Payment at the difference between the Class I and uniform prices should be made by the receiving handler into the producer-settlement fund on the portion of unregulated milk which is assigned to Class I through proration. During the months of April through July and October through December a seasonal incentive plan of pricing is herein recommended. For the purpose of computing a rate of payment on unregulated milk during these months, a weighted average price must be computed in a manner identical with the computation of the uniform price in other months.

There can be no question that the Class I price basically should apply to both regulated and unregulated milk used in a fully regulated plant as Class I milk. To attribute any different valuation on the unregulated milk would automatically result in inequity as compared with regulated milk similarly utilized. Although there is no room for doubt as to the need to attribute a Class I value for any milk so utilized (the minuend), the proper credit to be allowed to milk from unregulated plants is not clear, i.e., what subtrahend should be used in such a payment formula. It may be expected that in many situations a payment at any lesser rate than the difference between the Class I minimum price and the value of such milk as surplus would give unwarranted price advantage to unregulated milk over producer milk similarly utilized.

Milk at unregulated plants may be purchased from dairy farmers on a flat price basis without regard to use classification. Although most of the milk so purchased by the unregulated plant operator may be intended for local distribution outside the regulated market, excess milk supplies on a daily and seasonal basis will arise as they also do in regulated plants.

This frequently leaves excess milk at unregulated plants which is truly surplus to the normal fluid needs of those plants. This situation is accentuated at certain times of the year when there are characteristic seasonal increases in the production of milk without corresponding increases in the demand for milk. If it were not for the sale in the regulated market, such milk would have no higher value to the plant operator than its surplus value. In such circumstances, the operator of such an unregulated plant, including the fringe distributor, has great incentive to "dump" his surplus milk into the regulated market or its supply system at any price higher than a surplus price and thereby obtain a competitive advantage for such milk over regulated milk. Regulated handlers cannot similarly convert otherwise surplus Class II milk into Class I utilization without accounting to the producer-settlement fund at the full difference between these two utilizations, i.e., they account at Class I rather than Class II. There would then appear to be substantial justification for the same rate of charge against milk from unregulated plants obtained and used in similar circumstances.

Notwithstanding the fact that surplus milk is obviously available to handlers from time to time, there is no indication that they have exploited their opportunities to use such milk. It is concluded, therefore, in the light of the decision of the Supreme Court in the Lehigh Valley case, and because of the administrative difficulty in determining whether particular milk from an unregulated plant utilized as Class I in this market actually might have only a surplus value or cost at source, that the charge should be limited to the difference between the Class I price and the market order uniform price (weighted average price for the months of April through July and October through December), both adjusted for butterfat content and the location of the unregulated plant from which the milk was received. Although the use of the uniform price as the subtrahend will not assure complete removal of the minimum price advantage which may exist for some milk for the reasons just stated, it nevertheless will serve to minimize this advantage in such cases, and generally should be an equitable means of providing a reasonable measure of protection to the regulatory plan. If subsequent experience shows that such payment is not protecting the regulatory plan, then, on the basis of specific evidence, another rate of payment or another plan will need to be devised.

As a means of carrying out the equalization provided by market pooling, regulated handlers are required to pay this minimum uniform price to their own producers and, in addition, are required to pay to the producer-settlement fund the full difference between the Class I price and such uniform price on all regulated milk classified as Class I because of its use as fluid milk. Unregulated milk similarly used as Class I milk by a regulated handler likewise should carry a payment to the producer-settlement fund at least at the same rate as that required on regulated milk. If the handler buys regulated milk at a price in excess of the uniform price, he receives no credit for this excess payment in accounting to the producer-settlement fund. Neither should he receive credit for any amount paid for unregulated milk in excess of the uniform price. Both the regulated and unregulated milk, therefore, will be credited at only the uniform price in accounting to the producer-settlement fund.

These payments are not unfair or burdensome to the dairy farmer supplying the unregulated plant, whose milk is used as Class I milk by a federally regulated handler. The allowance of a credit for milk from unregulated plants used as Class I by the regulated handler at the uniform price level will provide opportunity to the unregulated plant operator to pay his dairy farmers at least the uniform price on these Class I sales. The order cannot, of course, guarantee to the dairy farmer that his purchaser in fact will pay this full uniform price to him.

The order must contain provisions of this kind which serve to adequately relate to the total scheme of regulation that milk received by regulated handlers which is not subject to full regulation. Otherwise, the very existence of the market pool order may establish the condition which makes impractical the attainment of the regulatory objective of stabilizing the market in the manner prescribed by the statute. Consequently, the Secretary must protect, to the extent consistent with the Act, the regulatory plan in any marketing area against defeat or impairment because of the introduction into the marketing area of milk

[3] Such total utilization would be subject to certain prior deductions for receipts assigned to the surplus classification as mentioned in prior findings.

from unregulated sources which is not subject to full regulation.

The record indicates that little or no packaged milk is expected to be received at pool plants from unregulated plants. However, in case such a contingency should arise in the future, a rule for dealing with it must be provided. In the absence of evidence as to a specific method of dealing with such receipts, it should be provided that packaged milk received from an unregulated plant will be treated the same as bulk milk.

Producer-handler surplus, reconstituted milk, non-Grade A milk. Certain milk by its very nature must be treated as surplus when received at market pool plants regulated by a Federal order and, therefore, it must be assigned a surplus value. One such source is milk received at a regulated plant, in either bulk or packaged form, from a producer-handler (under any Federal order). Another source is milk produced by the reconstitution to fluid form of manufactured dairy products, such as fluid skim milk made by the addition of water to nonfat dry milk. Still another source is milk of manufacturing grade (non-Grade A milk) which is not eligible for disposition for fluid consumption in the market. As to milk from these sources, a payment into the producer-settlement fund at the difference between the Class I and surplus prices must be required of the receiving handler when such milk is allocated to Class I, following "down allocation" to the extent it can be absorbed in lower priced uses.

In this order as in most other orders the producer-handler is exempt from the pooling and pricing provisions. This exemption is based on the principle that the producer-handler assumes the burden of disposing of his milk supplies in excess of his Class I milk needs. Being exempt from these provisions of the order makes it possible for the producer-handler to retain the full return from his Class I sales of milk on routes even though such sales are in competition with regulated handlers.

Producer-handlers are primarily engaged in the distribution of Class I milk. Normally they do not maintain facilities for processing and manufacturing any milk produced in excess of the Class I needs. Because of seasonality of milk production and for other reasons, producer-handlers will produce some milk in excess of their Class I needs. The best available outlets for this surplus milk usually are to fully regulated plants in the market. In view of a producer-handler's limited capacity for utilizing excess supplies of milk, it is often economically advantageous for him to dispose of such excesses at surplus prices to regulated handlers. Such milk, therefore, would be available to regulated handlers at surplus prices. Under these circumstances, it would not be appropriate to allow the regulated handler credit from the producer-settlement fund at more than a surplus price for any such purchases.

Inasmuch as a producer-handler's appropriate competitive relationship with other handlers and with other producers depends upon the producer-handler assuming the burden of his own surplus, an equitable relationship among the several groups would not be achieved if a producer-handler were allowed to dispose of his surplus and obtain the uniform price for such surplus. As long as the producer-handler has the advantage of enjoying the full benefit of his own Class I route sales without sharing them with other producers he should not also receive Class I benefit from a market pool, at the expense of producers, for any of his milk which he is unable to sell in such way. Surplus milk purchases from producer-handlers operating under another order has the same potential for creating disorderly marketing conditions as surplus from producer-handlers operating under the same order. Therefore, no distinction in treatment for such milk should be provided.

The order should provide, therefore, that milk received from producer-handlers at a pool plant should first be assigned to Class II milk at the pool plant. If any is then assigned to Class I, a payment into the producer-settlement fund at the Class I surplus price difference should be applied. Such rate of payment on receipts by federally regulated handlers of milk from producer-handlers was ratified by Congress at the time provisions of the Agricultural Adjustment Act of 1933, as amended in 1935, authorizing the issuance of milk orders, were reenacted by the passage of the Agricultural Marketing Agreement Act of 1937. During the period between August 24, 1935, and June 3, 1937, the effective date of the latter Act, six Federal milk orders were issued under such Agricultural Adjustment Act. Two of such milk orders (Greater Kansas City, Mo., and Fall River, Mass.), placed in effect during this period, contained provisions requiring handlers who used bulk milk received from producer-handlers in other than the lowest priced classification to pay the difference between the class use price and the lowest class (surplus) price for such milk as part of the handler's total obligation for milk. Such payment was distributed, together with the classified value of producer milk of the handler, through the market pool.[3]

A surplus value likewise is properly assigned to reconstituted milk (for instance, the result of combining nonfat dry milk or condensed milk with water). The products used in such reconstitution process are made from milk which always carries a manufacturing, or surplus value. Producer milk used to produce such products is priced as surplus. Since the milk used to produce these products is originally priced as surplus milk, payment into the producer-settlement fund at the difference between the Class I and surplus price is necessary to insure competitive equity with producer milk when reconstituted milk is used in Class I. No recognition should be given to processing costs involved in the manufacture of the products derived from unregulated milk and used in reconstitution, since similar costs are incurred in processing producer milk into such products.

Nonfat dry milk and condensed milk also may be added to fluid milk products to increase the nonfat solids content thus making so-called "fortified" fluid milk products. The incentive for handlers to use nonfat milk solids to fortify fluid milk products arises from the specific demands of consumers. The increased emphasis on low-fat diets and the high nutritional value of nonfat solids in relation to their weight have contributed to the increased demand for added nonfat solids in fluid milk products.

Such products are distinguished from reconstituted products, however, in that the resulting volume of fluid product is not increased appreciably since no water is added. The essential economic difference in the use of milk solids for fortification of fluid milk products versus their use for reconstitution is recognized in the class use definitions. The class use definitions, which provide that the fluid equivalent of the added solids shall be Class II (excepting the minor quantity of increase in volume of the fortified product), and the allocation provisions which would assign the fluid equivalent of solids used to Class II milk, accomplish appropriate accounting and result in a proper obligation against the handler.

Milk of manufacturing grade is not eligible for fluid (Class I) uses under the requirements of the health authorities in the market. In dual-purpose plants, however, such milk could find its way into Class I in the pool plant. The appropriate value which attaches to such milk is the surplus price because such price accurately reflects its value as manufacturing milk only. The manufacturing value is the price which processors pay for this grade of milk. Receipts at a market pool plant of manufacturing grade milk, therefore, should be assigned first to use in Class II. But should any manufacturing grade milk be assigned to Class I, a payment into the producer-settlement fund at the difference between the Class I and surplus prices likewise would be necessary to remove the competitive advantage this milk would have in relation to producer milk. Health authorities require that the source of milk eligible for fluid consumption (Grade A milk) must be identified. Any receipts from unidentifiable sources must therefore be treated as milk of manufacturing grade.

Receipts from other order plants. The order should provide for the assignment to Class I (i.e., to be deducted from gross Class I milk in the receiving plant)

[3] 7 U.S.C. sec. 672, which contains the codified language of sec. 4 of the Agricultural Marketing Agreement Act of 1937, as amended, states in paragraph (a) "Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to or any provision of, or any act of the Secretary of Agriculture in connection with any such agreement, license or order which has been executed, issued, approved, or done under sections 601–608, 608a, 608b, 608c, 608d–612, 613, 614–619, 620, 623, 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized and confirmed."

of 98 percent of packaged fluid milk products received from a fully regulated plant under another order. The remaining 2 percent should be assigned to Class II. The 2 percent may be considered as a safeguard against possible "overassignment" of milk to Class I in the originating market (i.e., the assignment to such market of a transferred quantity which is greater, from a practical standpoint, than normally can be disposed of as Class I in the receiving market). Since it is reasonable to expect some route returns will be associated with intermarket transfers just as there are in connection with milk locally processed in the receiving market, a small allowance of 2 percent for such returns, which must fall into surplus use, should be included to avoid such overassignment in Class I.

Prior to amendments to orders effective August 1, 1964, a variety of classification methods had applied to intermarket transfers of bulk milk. Such a variety of methods could not achieve the objective of appropriately integrating into the respective regulatory schemes in a uniform and consistent way intermarket shipments of regulated milk. Following the pattern of such amendments, "surplus" classification (Class II milk) should apply whenever the parties involved agree that the shipment is for manufacturing use in the second market. A higher classification would result only when it is found, on verification, that some portion of the milk could not have been used for manufacturing uses. This portion would then be reclassified as Class I.

Interorder shipments of bulk milk which are not classified as Class II by agreement should be classified as Class I and Class II on the basis of the marketwide utilization of producer milk. Such classification should be limited, however, so that the quantity of milk assigned to Class II is not greater than the receiving handler has utilized as Class II.

The order should not provide for marketwide proration of milk received from another order plant when the receiving handler has a greater proportion of milk in Class II than the average in the receiving market. Marketwide proration of receipts of milk from other markets is designed to deal primarily with milk received by a handler who is supplementing his local supply for Class I use. Marketwide proration would tend to encourage unduly and uneconomically the importation of milk by a handler with a higher proportion of milk in Class II than the market average because it would assign a disproportionate share of local producers' milk to Class II.

The particular classification which is given to bulk transfers from other orders will be within the control of the receiving handler and there will be no monetary obligation placed on him for this milk by the receiving market order. Inasmuch as other Federal orders from which milk might be received have provisions corresponding to those herein adopted, the situation will not arise where milk transferred would be classified as Class I in the shipping market and Class II in this market since the same classification would apply in both markets.

Assigning the bulk receipts from other order plants to the handler's system utilization will prevent a handler with more than one plant from discriminating against either his own producers or those supplying the other Federal order market by importing milk not serving a bona fide need for Class I use. It should be provided, therefore, that assignments of interorder bulk milk should be made over all utilization of milk at all the handler's regulated plants in the receiving market. In this order allocation is on a plant-by-plant basis. Accordingly, provision is made herein that the allocation of bulk receipts from other orders at a plant shall be on a system basis, irrespective of individual-plant accounting for other purposes of the order.

Handlers who receive milk from other orders or from unregulated plants should be precluded from transferring such milk to regulated plants of other handlers at a utilization higher than would have resulted from a direct receipt at the second plant. Unless the order so provides it would be possible to use a plant with high Class I utilization as a conduit for receiving milk from plants subject to other orders and avoid the allocation provisions of the order which apply to milk received directly from other orders and from unregulated plants.

In any month in which bulk milk is received in the market (without agreement as to Class II classification on the part of the handlers involved in the transfer) it will be necessary that the administrator in the shipping market know the classification of such milk on or about the date when handler reports are due under that order. Since the reporting dates under orders are very similar, it is possible the market administrator may not have complete information to compute his exact marketwide utilization of producer milk by the time the classification of a transfer is needed by the administrator in the shipping market. It is provided, therefore, that, when necessary, the market administrator will estimate the marketwide utilization of producer milk for purposes of determining the allocation of bulk milk received from other orders. It is provided, that such estimate will be made and publicly announced to the nearest whole percentage and, for this purpose will be final.

Federal orders generally provide that the administrator of any order receiving bulk milk from an other Federal order will promptly notify the administrator of the shipping market of the allocation of such milk so that a compatible classification on such milk may be applied under the shipping orders. Information as to the classification of such milk must be passed on by the respective administrators to the handlers involved so that handlers may know the basis of their obligation on such milk. This order should provide similarly for such interchange of information.

Situations may arise where plants subject to this and another Federal order ship milk back and forth during the same month (i.e., each plant ships milk to the other plant). If such shipments are of a similar nature (packaged milk, bulk milk designated for surplus disposal, or bulk milk not so designated) only transfers of milk between two plants which are not offset by an equal quantity of milk received from the second plant need be considered. Since the classification of this milk in the shipping market is based upon its allocation in the receiving market, only the net difference in transferred quantities (in terms of butterfat and skim milk separately as may be necessary) need be allocated in the receiving market. Otherwise, from a mechanical standpoint, neither market could allocate receipts of milk to classes until all milk had been classified, including the shipment to the other market.

(c) *Class prices.* Minimum class prices should be established at a level which will assure the maintenance of an adequate, but not excessive, supply of quality milk for the local fluid market, and at the same time assure the orderly disposition of the necessary market reserve supply.

The price for Class I milk should be computed by adding to a basic formula price $1.39 during each of the months of August through November, $0.99 during each of the months of March through June, and $1.19 in other months, subject to the equivalent price factor of minus 24 cents equal to the supply-demand adjustment under the Chicago order at the time prior to the order's suspension. It should be provided, however, that the Class I price shall be not less than the St. Louis order Class I price less 21 cents. This pricing formula should be adopted on a temporary basis for the first 18 months for which the order is effective.

This method of determining the Class I price by adding seasonal differentials to a basic formula price gives appropriate reflection of the economic factors underlying changes in the general level of prices for milk and manufactured dairy products. Because the market for manufactured dairy products is nationwide, prices for such products and the milk used in them reflect to a large extent changes in general economic conditions affecting the supply and demand for milk. By using manufacturing milk prices as a formula factor in determining Class I prices it is possible to reflect such general economic factors automatically in the Class I price.

The basic formula price to be used in establishing the Class I price should be the average price paid for manufacturing grade milk in Minnesota and Wisconsin for the preceding month as reported by the Department. Prices paid by a large number of plants in these two States are reported to the Department on the basis of the actual butterfat tests of milk received. The average price should be adjusted to a 3.5 percent butterfat test by a differential obtained by multiplying the Chicago butter price by 0.120. This butterfat differential is reflective of the value of butterfat at plants in this two-state region. This price series is

now in general use in Federal order markets and its use here will facilitate alignment of prices in this market with prices in surrounding order markets.

A differential over manufacturing milk prices is necessary to cover the extra cost of meeting quality requirements in the production of milk and to compensate for transportation costs to the fluid market where such milk is consumed. The differential thus provides a necessary incentive for dairy farmers to produce and deliver an adequate supply of pure and wholesome milk to meet consumer demands.

The various proposals made at the hearing would provide a Class I price formula using such basic formula price plus varying amounts of differentials. The eight cooperative associations proposed a Class I price formula using the same differentials over basic formula as adopted herein, and including the Chicago order supply-demand adjustment. A Peoria handler proposed a price level 9 cents less.

The Class I price should be sufficiently higher than the basic formula price to induce farmers to produce an adequate supply of qualified milk for the market. The Class I price should also have a reasonable relationship to Class I price levels in other markets of the region. Because the sources of supply for this market in many instances are contiguous or overlapping with those of existing Federal order markets, there is a substantial inter-market relationship of supply and demand conditions, and therefore a close similarity of Class I price levels is desirable. Such other markets are outlets for many of the producers who would be supplying this market. Also, milk supplies priced under orders in nearby markets represent alternative sources of supply for this market. Accordingly, a comparison of the proposed Class I price level for the Central Illinois marketing area with Class I prices in surrounding Federal order markets gives a basis for judgment of an appropriate price level for this market. This comparison is made on the basis of an estimated cost of Class I milk priced under other orders and delivered to Peoria. After such a temporary period a reappraisal of Class I price levels should be made.

In addition, it is necessary that the Class I price each month in the Central Illinois market be related to the Class I price in the St. Louis and Suburban St. Louis markets.

In the following table the estimated cost of milk which might be delivered to Peoria from other markets was arrived at by adding to the Class I prices of the other markets a transportation factor of 1.5 cents per hundredweight per 10 miles. This rate is the same as that on which the order location differentials are based. The same equivalent price factor, minus 24 cents, is presently effective in the Madison, Wis.; Quad Cities and Rock River orders as would be used in the Central Illinois order. Official notice is taken of the determination of equivalent prices for use in computing prices for Class I milk issued April 8, 1966 (31 F.R. 5685).

Market	Annual average differential	Approximate mileage to Peoria, Ill.[1]	Transportation cost [2]	Total
			(cents)	
Chicago, Ill.	$1.00	152	23	$1.23
Madison, Wis.	.90	193	29	1.17
Quad Cities:				
at Rock Island	1.10	100	15	1.25
at Dubuque	1.00	168	26	1.26
Rock River at Rockford	.92	128	20	1.12

[1] Mileage based on "Standard Highway Guide" Rand McNally and Co., Copyright 1961.
[2] Transportation cost based on 1.5 cents per hundredweight for each 10 miles of distance.

From the comparisons shown in the table it is concluded that the annual average Class I price differential herein recommended for the proposed Central Illinois market would be in reasonable relationship to the annual average differentials in these other nearby markets.

The marketing conditions in the proposed Central Illinois marketing area are substantially related to the marketing conditions in the proposed Southern Illinois marketing area and the St. Louis marketing area. Several of the handlers regulated under each of the proposed Central Illinois and Southern Illinois orders dispose of substantial quantities of milk regulated under the other order. Also, supplies of milk are procured by Southern Illinois handlers from areas to the north and northwest of the Central Illinois marketing area. It is reasonable to expect that such supplies would also be available to Central Illinois handlers. Further, marketing conditions in the proposed Southern Illinois marketing area would be influenced by supply and demand conditions in the St. Louis market since there is substantial overlapping of procurement and sales. The supply-demand adjustment of the St. Louis order is presently reflected in the Suburban St. Louis order Class I price and would be part of the price under the Southern Illinois order. Because of these substantial intermarket relationships, the Central Illinois Class I price order should bear a direct relationship to the St. Louis order Class I price for the initial temporary period. It should be provided that the Central Illinois Class I price in each month shall be not less than the St. Louis order Class I price less 21 cents. This is the difference between the annual average differentials.

The seasonal changes in the Class I differentials will be the same as in the St. Louis and Suburan St. Louis markets. Similar seasonal pricing is used in other nearby markets in Illinois, Wisconsin, and Iowa. This pricing, therefore, will be favorable to intermarket alignment as well as giving incentive to producers for even production. Class I price provisions for the Central Illinois order adopted herein should be effective for the first 18 months of the order. Prices for subsequent periods should be based upon a further examination of marketing conditions.

Class II price. The price for Class II milk should be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the U.S. Department of Agriculture adjusted to a 3.5 percent butterfat test. The Minnesota-Wisconsin price reflects the value of manufacturing milk in the major milk production areas of the United States. Because manufactured milk products compete on a national basis, it is important that the price for surplus use in the Central Illinois market be in close alignment with milk similarly used in other parts of the Nation.

The Class II price level should be high enough to reflect the full value of producer milk disposed of in manufacturing uses yet not exceed the level at which market reserve milk can be moved to manufacturing outlets in orderly fashion. Too high a Class II price will result in handlers' unwillingness to accept quantities of milk in excess of their Class I needs. Too low a Class II price on the other hand will encourage handlers to seek milk supplies solely for the purpose of converting them into Class II products.

In the proposed Central Illinois market cooperative associations control a large portion of the movement of milk supplies to handlers and arrange for the disposal of reserve milk. The cooperative associations proposed that the Class II price be set at the level of the Minnesota-Wisconsin manufacturing milk price series.

A Peoria handler proposed that the Class II price during the months of March through June be set at the Minnesota-Wisconsin price less 15 cents since somewhat greater volumes will have to be handled during this period.

It is expected that a substantial portion of the Class II utilization of the Central Illinois market will be in such products as cottage cheese and ice cream. The proprietary handler at Peoria who proposed the 15-cent reduction in the Class II price during March through June indicated that difficulties might be encountered in disposing of producer milk during these months at the Minnesota-Wisconsin price level.

Numerous outlets for surplus milk exist in nearby Wisconsin. This handler testified that he has diverted surplus milk to Wisconsin plants in the months of flush production including affiliated cheese plants. It was also disclosed that a number of manufacturing facilities in the State of Illinois not only pay the Minnesota-Wisconsin price but also pay some premium for manufacturing milk. One of these plants is located nearby at Minonk, Ill., and another at Forrest, Ill. Still another outlet paying a substantial premium for surplus milk is located at Greenville, Ill., where such milk is utilized in dietary products.

At the hearing, none of the other handlers expected to be handling Class II milk objected to the use of the Minnesota-Wisconsin price series.

The Minnesota-Wisconsin price is the Class II price in a number of Federal

milk orders. It has been adopted as the Class II price in the nearby markets of St. Louis and Suburban St. Louis. This price is also herein recommended for the proposed Southern Illinois order.

Official notice is taken of the Under Secretary's decision issued February 21, 1963 (27 F.R. 1802) describing the Wisconsin price series. The price for manufacturing grade milk in the two-State area of Minnesota and Wisconsin is issued by the State-Federal Crop Reporting Service on about the 5th day of each month for milk received at manufacturing plants in these States in the previous month. Plant operators report the total pounds of manufacturing grade milk received from farmers, the butterfat content, and total money paid to farmers for the milk. The two-State area is one in which there is a heavy concentration of manufacturing grade milk and where many plants are competing for such supply. In Minnesota about 83 percent of the milk sold off farms is manufacturing grade and in Wisconsin, about 58 percent. About 50 percent of the manufacturing grade milk sold off farms in the United States is produced in these two States.

The Minnesota-Wisconsin price series therefore provides a sound basis for determining the value of manufacturing milk. It is representative of prices paid to farmers for about half of the manufacturing grade milk produced in the country. It is a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. The system of reporting this price has been developed so that a reliable average price is available promptly.

The manufacturing milk price for the two-State area is reported by the Department as the price at actual butterfat test. The announced price is adjusted to the 3.5 percent butterfat test used in the orders by means of a butterfat differential equal to 0.12 times the average wholesale for 92-score butter at Chicago.

It is expected that the proponent cooperative associations as well as proprietary handlers will be able to dispose of reserve milk to nearby manufacturing plants at the resulting Class II prices. Adoption of this price formula will assure producers that they will be returned a full value for reserve milk.

Butterfat differentials. Milk in each class is priced to handlers at a basic test of 3.5 percent, subject to adjustment for variations in the proportions of skim milk and butterfat used in each class. This is accomplished by adjusting the class prices to each handler by appropriate butterfat differentials.

The value resulting from multiplying the Chicago butter price by 0.12 for Class I milk and 0.115 for Class II milk will provide an appropriate means for adjusting the prices in the market for each one-tenth percent variation in the butterfat content of milk used in various products. The Chicago butter price as a basis for establishing butterfat differentials will provide assurance for both producers and handlers that such differentials reflect changes in the butterfat values on the national market. The applicable factors of 0.12 and 0.115 have been found acceptable in nearby Suburban St. Louis and St. Louis markets as representing the value of butterfat in each class and would apply appropriately in this market. These butterfat differentials were supported at the hearing by the proponent cooperative associations without objection from handlers.

The butterfat differential used in making payments to producers should be calculated at the average value for use of producer butterfat in the two classes. This would be the average of the Class I and Class II butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect changes in the use of their butterfat in each class. The producer butterfat differential does not affect a handler's obligation and its sole purpose is to prorate returns among producers to the extent their milk differs from the basic 3.5 percent butterfat test.

Location adjustments. The Class I and uniform prices should be adjusted based on the location of the plant at which the milk is received.

Fluid milk products, because of their bulky, perishable nature, incur a relatively high transportation cost. In the case of producer milk received at a plant distant from the market, the handler must incur the transportation cost in moving the milk to the market. Under these conditions, the value is thereby reduced compared to milk delivered to the market. Providing location differentials based on the cost of moving milk to the market is therefore necessary to equalize the cost of milk to handlers who receive milk at various distances from the market.

Within the State of Illinois and the areas south of the northernmost boundaries of the counties of Henderson, Warren, Knox, Stark, Marshall, Livingston, Ford, and Iroquois milk can move efficiently from farms directly to pool plants distributing within the marketing area. It is not possible within this area to distinguish difference in value of milk due to cost of moving milk to market since the competitive procurement activities of handlers requires the same Class I price level. In this area, therefore, no location adjustment will be applicable. Further, since additional milk supplies would normally not be obtained from areas where milk is more costly, location deductions would not apply in the State of Illinois to the south of the marketing area.

For milk received at a plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Henderson, Warren, Knox, Stark, Marshall, Livingston, Ford, and Iroquois location adjustments should be applicable. Such adjustments should apply to milk classified as Class I and to fluid milk products transferred from such plant to another pool plant as Class I milk. The Class I price applicable at such plants should be reduced 7.5 cents if such plant is 50 miles or more from the City Hall in Peoria, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles. The location differential rates herein proposed represent the approximate cost of transporting milk to market by efficient means. The rate of 1.5 cents per 10 miles is a rate generally accepted for use in Federal milk orders. In addition, these location adjustments will be compatible with those herein recommended for the proposed Southern Illinois order, including the zone price structure herein recommended for that order. It will also provide prices at plants at various locations which are in alignment with prices in other nearby markets.

Uniform prices to be paid producers supplying plants at which location differentials are applicable should likewise be adjusted to reflect the value of the milk at the point to which the milk is delivered.

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

Since the supply of Grade A milk at pool plants in the marketing area is not adequate at all times to supply the demand for fluid milk products, some tolerance should be allowed in the assignment to Class I of milk brought in from supply plants. In calculating the location adjustment, transfers may be assigned to Class I only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations and the volume assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment to transferor plants shall be made first to plants at which no location adjustment credit is applicable and then in sequence beginning with the plants at which the lowest rate of such adjustment credit would apply. It is not necessary to provide a greater tolerance as proposed by one handler for assignment of transferred milk to Class I disposition at the receiving plant. It should be possible with reasonably efficient procurement arrangements to avoid receipt of milk from regulated supply plants in a manner which would cause assignment of such milk to Class II to an extent which might be burdensome to the handler. Most milk in this market is received direct from farms rather than supply plants.

Producers proposed that the application of location credit give milk transferred from other pool plants priority over other order and unregulated supply plant milk. It was held that such assignment would give a broader application of the principle that milk from nearest available sources be considered as

first in assignment to Class I of the receiving plant. This proposal is not adopted since it would contradict the pro rata assignment to Class I of milk from unregulated supply plants as provided in the allocation provisions. Removal of location credit on such milk could cause a variation in the application of rates of compensatory payment.

Use of equivalent prices. If for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator should use a price determined by the Secretary to be equivalent to the price which is required. Including such provision in the order will leave no uncertainty with respect to the procedure which shall be followed in the absence of any price quotations which are customarily used and thereby will prevent any unnecessary interruption in the operation of the order.

(d) *Distribution of proceeds to producers.* The order should contain provisions which describe the means whereby payments made by handlers for milk at class prices are converted to uniform prices to be paid to producers. The provision should specify also the terms under which such payments must be made.

The order should provide for marketwide pooling of the value of producer milk used by all handlers. Under a marketwide pool, the total money obligation of all handlers in the market is combined to compute a uniform price applicable to all producer milk.

To accomplish this purpose it is necessary that there be an exchange of money among handlers such that each handler is enabled to pay the marketwide uniform price. The transfer of money would be made through a producer-settlement fund, as hereinafter discussed, established by the market administrator. Each handler would pay into the producer-settlement fund any plus difference of the value of his producer milk at class prices over its value at the market uniform price. A handler whose producer milk has a lesser value at the class prices than at the market uniform price would receive payment at the difference from the producer-settlement fund. This arrangement enables each handler to pay the uniform price to producers. This operation of marketwide pooling as applicable in this market would be subject to a modification commonly known as a seasonal incentive plan or "Louisville plan" described elsewhere in these findings.

Marketwide pooling was proposed by the cooperative associations supporting the issuance of a Central Illinois order. They preferred marketwide pooling to insure that each producer supplying the market would receive his pro rata share of returns for the Class I and Class II utilization. Marketwide pooling was considered necessary to prevent unequal allocation of the burden of market reserves on certain groups of producers.

Under marketwide pooling each producer will receive a uniform price for his milk which will reflect the average utilization of all pool plants in the market. Each handler, however, will pay for milk in accordance with his own use at the applicable class prices.

The marketwide pooling of returns to producers will promote efficient handling of milk in the area. The proposed marketing area and its supply area encompass a wide geographical territory in which the supply of milk readily available for some plants varies considerably from the supply at others. Some plants disposing of milk in the proposed marketing area have little, if any, facilities for manufacturing reserve milk. Such plants normally limit their receipts of producer milk to the quantity needed for Class I in the flush production months and procure supplemental supplies for Class I use during the months of short production. Other plants have some manufacturing facilities and available outlets through which they can readily market surplus milk. Thus, these latter plants are able to carry adequate supplies of milk on a year-round basis. The marketwide pool will enable a handler with manufacturing facilities or a cooperative association to handle the reserve supplies and to pay producers the same price as is paid by handlers who do not assume the responsibility of carrying the necessary reserve.

A marketwide pool will make it possible for handlers, including cooperative associations, without sufficient manufacturing facilities to divert reserve milk supplies when these are not needed by pool plants and yet return to the producers of such milk the uniform price. A large part of the milk supply for handlers in this market is furnished by cooperative associations. In connection with arranging for delivery of member milk to handlers' plants in quantities the handlers desire, it is necessary also for a cooperative association to arrange for diversion of reserve milk to nonpool plants for manufacturing. Without marketwide pooling, therefore, the burden of the Class II returns could fall upon members of cooperative associations. This handling of reserve milk is a necessary service to the market in insuring an adequate supply at all times.

A marketwide pool thus will result in equitable distribution among all producers of their lower returns from reserve milk rather than placing the burden of such milk on individual groups of producers. A marketwide pool will thereby contribute to market stability and the attainment of an adequate and dependable supply of producer milk for the proposed market.

Producer-settlement fund. Inasmuch as all producers will receive payment at the marketwide uniform price each month (adjusted for "Louisville plan" payments during certain months) and because the payment due from each handler at the applicable class prices may be more or less than he is required to pay directly to his producers, a method of balancing these differences is necessary. For this purpose the market administrator shall establish and maintain a producer-settlement fund. A handler whose obligation at class prices according to his utilization is more than he is required to pay his producers, shall pay such difference into the producer-settlement fund. A handler who is required to pay less according to his utilization than he is required to pay his producers shall receive such difference from the producer-settlement fund.

For efficient functioning of the producer-settlement fund, a reasonable reserve should be set aside each month to cover such contingencies as the failure of a handler to pay his monthly billing promptly or additional payments which may be due a handler from the fund by reason of audit adjustments. The reserve would be operated as a revolving fund and be adjusted each month by withholding from the pool computation an amount equal to not less than 4 cents nor more than 5 cents per hundredweight of producer milk. One-half of the reserve so accumulated would be added each month to the pool in computing the uniform price.

If the balance in the producer-settlement fund is insufficient to cover the payments due handlers, the market administrator should uniformly reduce payments per hundredweight to such handlers. The remaining amounts due such handlers should be paid as soon as the balance in the fund is sufficient to meet such payments. Producers in turn should receive full payment from handlers. In order to reduce the possibility of this occurring, milk received by any handler who has failed to make the required payments for the preceding month would not be included in the computation of the uniform price.

Any payments on partially regulated milk received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby distributed to all producers on the market.

Payments to producers and cooperative associations. Each handler should pay each producer for milk received from him and for which payment is not made to a cooperative association, an amount equal to not less than the uniform price adjusted by butterfat and location differentials. This payment at the applicable uniform price should be made on or before the 20th day of the following month.

Provision should be made for a cooperative association, if it so desires, to receive payment for member producer milk which is received by a pool plant. The collection of payments for milk of its members will permit the cooperative association to reblend the proceeds from the sale of such milk, will facilitate the transfer of milk among handlers and aid in the orderly movement of reserve milk to other plants either by transfer or diversion for manufacturing use. Thus, a cooperative association will be assisted in discharging its responsibilities to its members and the market.

The Act provides for the payment by handlers to cooperative associations for milk delivered by their members and

permits the reblending of all proceeds from the sale of member milk. Cooperative assocations serving the Central Illinois market have contracts with their members which allow the associations to collect payment for member milk. Therefore, each handler, if so requested, should pay cooperative associations the full amount due for producers' milk in lieu of payments to individual producers. The associations, however, should provide for reimbursement of any loss incurred because of an improper claim. Handlers should be required to pay the association on or before the 18th day of the following month or 2 days before payment is required to be made to individual producers. This will give the cooperative association sufficient time to reblend its receipts and pay its members on the same date on which nonmembers are required to be paid.

A handler should also be required to pay a cooperative association for all milk purchased from such association in its capacity as a handler on or before the 18th day of the following month. In the case where the cooperative is the handler for producer member milk delivered from the farm to another handler's plant, such payment should be made at not less than the uniform price adjusted by the applicable butterfat and location adjustments. For other milk which a cooperative may deliver from its plant to another handler's plant, payment should be at the class prices according to the classification of milk transferred.

At the time settlement is made for milk received from producers the handlers should be required to furnish to each producer (or his cooperative association) a supporting statement. This statement should show the pounds and butterfat tests of milk received from such producers, the rate of payment for such milk and the description of any deduction claimed by the handler.

Seasonal incentive plan. A "Louisville seasonal incentive plan" was proposed by cooperative associations in the market. It was their position that such a plan, in addition to the seasonal Class I pricing, is necessary to furnish adequate incentive for even production.

The plan provides for deductions of 10 cents per hundredweight from payments to producers in the months of April, May, June, and July, and addition of such money to producer payments in the following months of October, November, and December at the rate of one-third of the total money in each month. The money withheld in the April–July period would be retained in the producer-settlement fund until paid out in the fall months.

Similar seasonal incentive plans are effective in the Suburban St. Louis and St. Louis markets. Adoption of a "Louisville plan" in this market is desirable from the viewpoint of similarity in pricing, since many of the producers may from time to time shift from one order to another. It is also desirable for the purpose of achieving adequate supply for the market at the time it is needed. It is concluded that the proposed plan should be adopted.

The plan should become effective beginning with payments for milk delivered in April 1967.

(e) *Administrative provisions.* Certain other provisions are needed in the order to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

(1) *Terms and definitions.* In addition to the definitions discussed earlier in this decision which established the scope of regulation, certain other terms and definitions are desirable for the purpose of brevity and to assure that each usage of the term implies the same meaning. Such terms as defined in the proposed order are common to most other Federal orders.

(2) *Market administrator.* The order should provide for the appointment by the Secretary of a market administrator to administer the order and should set forth powers and duties of the market administrator.

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

It is essential that handlers' reports be submitted to the market administrator not later than the 7th day of each month. The market administrator should announce the uniform price for the previous month's milk on or before the 12th day of each month. The market administrator should also notify handlers of the amount due on milk handled during the month on or before the 12th day after the end of the month to permit sufficient time for handlers to submit payments due to the producer-settlement fund on or before the 15th day of the following month. The payroll report of each handler should be submitted to the market administrator on or before the 20th day of each month. It should include such information as weights, butterfat tests, payments for milk and authorized deductions.

Handlers should maintain and make available to the market administrator all records and accounts of their operations which are necessary to determine the accuracy of the information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled and to verify all payments required under the orders.

Detailed reports to the market administrator by all handlers would be used to determine whether the plants of such handlers qualify as pool plants.

The market administrator should report to each cooperative association, which so requests, the percentage of milk delivered by its members and utilized in each class at each pool plant receiving such milk. For the purpose of this report the percentage of members' milk in each pool plant should be prorated in the proportion that producer milk was utilized by that handler. These reports are necessary for cooperative associations to market their member milk most efficiently so that available producer milk will be channeled to available Class I uses.

It is necessary that handlers retain records to prove the utilization of the milk received and that proper payments were made therefor. Since the books of all handlers associated with the market cannot be audited immediately it is necessary that such records be kept for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain books and records and on the period of time in which obligations under the order should terminate. The obligations of any handler under the order shall terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless the handler fails or refuses to make available all required books and records or a handler's obligation involves fraud or willful concealment of a fact. The provisions made in this order are identical in principle to those adopted for all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F.R. 444). Official notice of such decision was taken on the record. The reasons for such provisions as are set forth in that decision are similarly applicable to the situation in this market and the provisions should be adopted in this order.

4. *Expense of administration.* The Act requires handlers to pay the cost of operating an order through an assessment on milk handled. Each handler operating a pool plant should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 5 cents, or such lesser amount as the Secretary may prescribe, on all receipts within the month of milk from producers including milk of such handler's own production, any other source milk allocated to Class I (except milk so assessed under another Federal order), and producer milk received from a cooperative association in its capacity as a handler on farm bulk tank milk.

The maximum rate of administrative assessment of 5 cents per hundredweight herein recommended is identical to the rate currently in effect under the Suburban St. Louis order and is appropriate for the proposed Central Illinois order. This rate appropriately provided funds for the market administrator to meet the necessary cost of administering the Suburban St. Louis order at the time of its promulgation. Since the funds from this rate of assessment have proved adequate for the expense of prior administration of that regulation, it is expected that this rate will likewise provide adequate funds to cover the initial administrative costs in establishing this regulation.

This order specifies minimum performance standards which must be met to obtain regulated status. With certain specified exceptions, operators of plants not meeting such standards would, under the provisions proposed in this decision, be required to either make specified payments into the producer-settlement fund on route distribution in the marketing area in excess of offsetting purchases of Federal order Class I milk, or otherwise pay into such fund and/or dairy farmers, an amount not less than the full classified use value of receipts (computed as though such plant were a fully regulated plant).

The market administrator, in administering an order as it applies to the nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. Partial regulation (as prescribed) of such distributor does not, however, provide the same benefits to such handler as accrue to the fully regulated handler; i.e., the privilege of participation in the market pool and assurance of uniform price payments to his dairy farmers. If the nonpool route distributor elects to make a payment on his in-area sales at the difference between the Class I price and the uniform price for the market, the expenses incurred by the market administrator in administering the terms of the order on such handler are nominal and payment of the administrative assessment on his in-area sales reasonably would constitute his pro rata share of administrative expense.

In the situation where such a distributor for any reason actually pays his dairy farmers the full use value of their milk (computed at order prices), it has in the past on the basis of substantial record evidence in promulgation hearings, been found necessary in many areas to require payment by such distributor of an administrative assessment on his total receipts of milk in order to defray the costs of complete plant auditing to verify the utilization and payments as claimed. In large measure, such a distributor's operations are more comparable to those of a fully regulated handler and such assessment is substantially the same as for a fully regulated handler. There is reason to believe, however, that in some instances such an assessment might make possible a financial obligation under the order in excess of his total obligation through the alternative of electing to make a payment into the producer-settlement fund. From the financial standpoint such a situation provides little practical alternative to such handler but to pay the required pool payment. In order to give more meaningful effect to the choice of an alternative, the pro rata share of the administrative expense of the order should be the regular assessment rate applied to such milk as is actually disposed of as Class I in the regulated area that exceeds Class I milk received from other regulated plants or other order plants, irrespective of whether the option to pay into the producer-settlement fund is elected by the unregulated distributor.

In the case of unregulated milk which enters the market through a fully regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk as well as on all other milk received and utilized. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. It is concluded, therefore, that the regulated handler should be responsible for payment of the administrative assessment with respect to such unregulated milk.

The market administrator must have funds sufficient to enable him to administer the order. The order is designed to share this cost equitably among all handlers distributing milk in the proposed marketing area. However, to prevent duplication an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

(5) *Marketing service.* Provisions should be made in the order for providing for marketing services to producers, such as the verification of tests and weights of producer milk and furnishing them with market information. The services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. A qualified cooperative association, approved for such activity by the Secretary, may perform such services for its member producers in lieu of such services by the market administrator.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producers' deliveries as reported by the handler are proved to be accurate.

An additional phase of this market service program is to furnish producers with current market information. Efficiency in the production, utilization and marketing of milk will be promoted by providing for the dissemination of current market information on a market-wide basis to all producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. This is the same rate as previously provided in the Suburban St. Louis order and it has provided funds necessary to conduct the program under that regulation at the time of promulgation. If later experience indicates that marketing services can be performed at a lesser rate, provision is made in this order whereby the Secretary may adjust the rate downward without the necessity of a hearing. In the event a qualified cooperative association has been determined to be performing such marketing services for its members, handlers would be required to pay to the cooperative association such deductions as are authorized by its producer members.

6. *Interest payments on overdue accounts.* Provision is made for the payment of interest at a monthly rate of one-half of 1 percent on amounts due to the market administrator for each month or portion thereof that such obligation is overdue.

Prompt payment of amounts due to the market administrator is essential to the operation of order provisions. Interest charges will encourage payment of amounts due on or before the specified date. The rate provided herein is reasonable to compensate for the cost of borrowing money in accord with normal business practices.

Presently, the Suburban St. Louis order provides not only for such interest payments by handlers but also for the same interest charge on obligations owed by the market administrator to handlers. Since there would be no delay in payments by the market administrator to handlers unless monies properly due to him from handlers has not yet been received, there is no need to apply interest charges on obligations owed by the market administrator to handlers.

FINDINGS AND CONCLUSIONS WITH RESPECT TO SOUTHERN ILLINOIS MARKETING AREA

(a) (1) *Marketing area.* The Suburban St. Louis marketing area should be expanded to include 30 additional counties all in the State of Illinois. These will include:

Champaign.	Logan.
Christian.	Macon.
Clark.	McLean.
Clay.	Menard.
Coles.	Morgan.
Crawford.	Moultrie.
Cumberland.	Piatt.
Dewitt.	Richland.
Douglas.	Saline.
Edgar.	Sangamon.
Edwards.	Shelby.
Effingham.	Vermillion.
Hamilton.	Wabash.
Jasper.	Wayne.
Lawrence.	White.

The marketing area should include all territory within the present marketing area and within the above mentioned counties, together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county or municipal governments located wholly or partially within such territory.

The expanded marketing area, including the present 19 and the additional 30 counties should be named the Southern Illinois marketing area. This enlarged marketing area would extend to the east and north of the present area, and would adjoin the proposed Central Illinois marketing area.

The sanitary requirements for Grade A milk produced for fluid distribution in this marketing area are patterned after the U.S. Public Health Ordinance and Code. Milk meeting the sanitary requirements of the State of Illinois is acceptable for distribution throughout the proposed marketing area. In view of the uniformity of health standards there are no differences in milk quality which would interfere with the single order regulation for the entire proposed area.

The marketing of milk in the area to be added is closely associated with the marketing of milk in the present marketing area. Handlers regulated under the Suburban St. Louis order presently dispose of milk on routes in much of the proposed new marketing area. Other Class I sales in the proposed area are very largely made by plants located in the proposed new area.

East of the present Suburban St. Louis "base zone" are nine of the proposed counties: Clay, Edwards, Hamilton, Lawrence, Richland, Saline, Wabash, Wayne, and White. The majority of the Class I sales in each of these counties is made by handlers now regulated under the Suburban St. Louis order. Additional sales are made in these counties by a plant at Olney, Ill., operated by one of the proponent cooperative associations which would be regulated under the proposed marketing area expansion. Sales by presently regulated handlers and the plant at Olney make up all but a small part of the total volume of sales in these counties.

A relatively minor percentage of the remaining sales in the nine counties is made by two plants at Evansville, Ind., regulated under the Louisville-Lexington-Evansville order, and by handlers regulated under the Indianapolis order.

These nine counties should be included in the marketing area to assure orderly marketing therein both for milk now regulated under Order No. 32 and milk which would thereby be brought under regulation.

Generally to the north of the aforementioned counties and the present marketing area are 10 additional proposed counties of: Christian, Clark, Coles, Crawford, Cumberland, Effingham, Jasper, Morgan, Sangamon, and Shelby. These counties are served by presently regulated handlers and by other fluid milk distributing plants located within the area. One of the plants, located at Mattoon in Coles County, is presently regulated under the order. The sales territory covered by this plant was reported by the handler in combination with sales by his unregulated plant at Champaign. The distribution area of the combination of the two plants includes Clark and Crawford Counties on the eastern boundary of Illinois and extends as far west as Sangamon and Morgan Counties. Included also are Cumberland, Jasper, Shelby, Effingham, Fayette, and Christian Counties. This 10-county area is served also by a distributing plant operated by Prairie Farms, one of the proponent cooperatives, located in Pana in Christian County. Another plant of a proprietary handler is located at Taylorville in Christian County and is partially regulated. These plants and associated plants of Prairie Farms have the majority of Class I distribution in these 10 counties.

Two plants which would be regulated under the Central Illinois order, located at Pekin and Peoria have a minor share of the sales in these 10 counties. It is estimated that not more than 20 percent of the Class I sales are by these two plants. In a few of the counties there are Class I sales by a plant identified with the Chicago market and one regulated under the Indianapolis order.

In the remaining 11 counties (Champaign, De Witt, Douglas, Edgar, Logan, Macon, McLean, Menard, Moultrie, Piatt, and Vermilion) comprising the northern part of the proposed marketing area, the places of major population are at Champaign and Urbana, in Champaign County; Danville, in Vermilion County; Decatur, in Macon County; and Bloomington, in McLean County. These counties are served by fluid milk distributing plants located in the counties and two plants at Peoria and Pekin, which would be regulated under the Central Illinois order. In each of the counties with major population centers, however, the majority of Class I milk distribution is by the plants which would be regulated under the Southern Illinois order, located at Champaign, Decatur, Monticello, Bloomington, plus plants operated by Prairie Farms at Carlinville, Pana, and Olney. Some sales in these counties are made also by a plant identified with the Chicago market and a plant regulated under the Indianapolis order.

All of these counties should be included in the proposed marketing area to assure orderly marketing of milk to be regulated. The marketing area is a territory within which handlers to be regulated compete extensively with overlapping areas of distribution. The entire territory is affected by similar supply and demand conditions.

It is concluded that all of the milk and milk products disposed of in the redefined marketing area (to be designated the Southern Illinois marketing area) is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products.

An analysis of the overlapping of sales areas by the Southern Illinois and Central Illinois distributors shows that the plants have their major distribution in the marketing area where they would be regulated. A number of plants with distribution areas in a few counties have virtually all of their sales within the marketing area of the order under which they would be regulated. The more extensive distribution by some other plants involves some overlapping from one marketing area into the other. The plant at Champaign was reported to have more than 60 percent of its sales in the proposed Southern Illinois area and about 13 percent in the Central Illinois area. The plant at Pekin, Ill., has about 50 percent of its sales in the proposed Central Illinois marketing area and about 40 percent in the proposed Southern Illinois marketing area.

Although some of the route distribution of handlers to be regulated extends beyond the boundaries of the counties proposed for regulation, it is neither practical nor reasonable to extend the regulated area to cover all of a handler's route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is such that it will encompass a substantial percentage of the fluid milk sales of most handlers to be regulated and result in only a minimum of such sales being made outside of the proposed marketing area. In most instances, sales of regulated handlers outside the proposed marketing area would be in large part within another Federal order marketing area. The findings previously made herein with respect to the proposed Central Illinois order as to the need for classified pricing of all producer milk handled at pool plants are equally applicable in this case for milk handled in pool plants to be regulated under the Southern Illinois order.

(a)(2) *Pool plant provisions.* No change should be made in pooling requirements for distributing plants. Supply plant requirements should be modified to require that shipments be made to distributing plants which have 50 percent Class I use of pooled milk in August through February and 40 percent in other months.

Certain proposals made at the hearing would require a distributing plant to have Class I disposition each month equal to 50 percent of its Grade A receipts from dairy farmers and cooperative associations as handlers. These proposals should not be adopted.

Presently the order requires Class I disposition of 50 percent of designated receipts only in the months of August through February, and requires 40 percent in March through July. The lower 40 percent requirement during March through July was made effective in the Suburban St. Louis order February 1, 1965. The necessity for the lower requirement was based on the need for handling the seasonally larger quantities of reserve milk at distributing plants during these months. Evidence on this record shows that such provision continues to be necessary for the handling of seasonally greater quantities of milk received from dairy farmers regularly associated with the market.

A proposal was made by producer associations to modify the supply plant provisions so that only in May and June a supply plant could remain pooled while not making shipments. Under this proposal the plant would qualify for pooling in May and June on the basis of shipments during the prior September through January period, equal to not less than 50 percent of its Grade A milk receipts from dairy farmers. The September through January period is the same as now provided in the order during which a supply plant may establish its

qualification to remain pooled during the subsequent period of February through August. An additional effect of the proposal would be that the supply plant could not qualify in the months of February, March, April, July, and August, except on the basis of meeting the 50-percent shipping requirement in each month. The producer associations favored this modified supply plant provision for the purpose of preventing burdensome supplies of milk being included in the pool for only manufacturing purposes.

It is not evident that extending the number of months during which the supply plant would need to make shipments of 50 percent of its receipts to the market would, in fact, guard against burdening the pool with milk intended for manufacturing milk use. Further, the seasonal pattern of utilization which has been the experience in the Suburban St. Louis market does not suggest that extending the number of months in which a supply plant must ship 50 percent of its receipts would be in the interest of orderly and efficient marketing. The months of September through January are the months when highest average Class I utilization has occurred in previous years. February and August have in some years had considerably lower utilization. Extending the period when such shipments are required might accomplish little more than to encourage the shipping of milk when it is not needed.

The purpose of assuring an adequate supply for the market at times when it is needed for fluid use will be better served by a requirement that the supply plant shipments be made to distributing plants which have at least a specified Class I utilization of all pooled milk, including that shipped from supply plants. The specified utilization should be 50 percent in the months of August through February, and 40 percent in other months. This modification is adopted in the proposed amended order.

(a) (3) (i) *Producer milk.* The producer milk definition should include the milk received at a pool plant from a cooperative association acting as a bulk tank handler delivering such milk from producers' farms to the plant.

Presently, the order definition of producer milk includes the milk physically delivered from producers' farms to a pool plant but excludes milk so delivered by a cooperative as a bulk tank handler. It is convenient, however, for purposes of classification, accounting and payment for the milk so received from a cooperative association to be included in the term "producer milk".

The quantity of milk delivered to the pool plant in a truck load by the cooperative association may not be exactly the same as the total of quantities picked up at producers' farms in the same load, because of some loss during handling from farm to plant. Such loss, if any, is the concern of the cooperative association as a handler and must be accounted for to the pool as producer milk by the cooperative association. This quantity also should be specified in the definition of producer milk.

(a) (3) (iii) and (iv) *Milk diverted to other pool plants and other order plants.* Diversion between pool plants and to other order plants is presently provided in the Suburban St. Louis order and should be incorporated in the proposed Southern Illinois order. The diversion of a producer's milk to other pool plants or to other order plants is permitted for not more days production of producer milk by such producer than is physically received at a pool plant(s).

Such diversion provisions permit a handler to move unneeded quantities of milk to other pool plants or other order plants which have manufacturing facilities, and yet maintain such milk in producer milk status. This facilitates efficient handling of reserve milk of the market and aids in efficient allocation among plants of the market's fluid milk supply. This is done without interfering with the pooling qualification of a pool plant to which milk is diverted. Such diversion also permits the convenience of retaining the diverted producers on the payroll of the diverting plant operator for the entire month.

The order should provide for diversion to another order plant for disposal of reserve milk in Class II use. If milk from a dairy farmer were reported by a handler as diverted to an other order plant for Class I use, the milk would be properly producer milk under the other order. In this case it would be necessary that the report under this order be corrected to eliminate such quantity, since it would not fit the definition of producer milk.

Since a cooperative association may act as a handler delivering milk to any pool plant, the new order does not provide for diversions between pool plants by a cooperative association. There may be occasions, however, when it is desirable for a cooperative association to divert milk of its members to an other order plant for its account. This is presently provided in the Suburban St. Louis order and would be continued in the revised order.

Appropriate pricing of the diverted milk is dealt with under the findings on location adjustments as hereinafter developed.

(a) (4) *Other definitions.* Certain definitions of the Suburban St. Louis order should be changed to better reflect the marketing situation expected to prevail in the proposed Southern Illinois order and to conform more closely with the provisions of the Central Illinois order.

The handler definition should be amended to designate the operator of an unregulated supply plant as a handler under the order.

The substantial marketing area expansion herein recommended could result in a number of distributing plants and their associated supply plants becoming newly regulated by the Southern Illinois market. Defining the operator of an unregulated supply plant as a handler will permit the market administrator to obtain necessary reports of receipts and utilization from such a plant and thereby enable the market administrator to determine the exact status of such plants under the order. A conforming change should also be made in the reporting section of the order to provide that such a handler be required to make such reports of receipts and utilization at such time and in such manner as the market administrator may prescribe.

The fluid milk product definition of the order should be revised to specify certain types of dairy products distributed in the marketing area, and to conform with the definition recommended for the Central Illinois order.

The definition should include fortified milk drinks as well as those not fortified. It should also include dietary milk products, and concentrated milk which is not in hermetically sealed containers. These are products intended for fluid consumption and for which milk from Grade A sources is required. They should be included in the fluid milk product definition so that disposition in this form will be clearly Class I milk.

The products to be excluded from the fluid milk product definition are those not required to be processed from Grade A milk and which may be marketed without a Grade A label. In addition to products now excluded, the definition should also exclude yogurt and cultured sour cream mixtures other than sour cream if not labeled Grade A. For purposes of clarification it should also exclude evaporated and condensed milk, and frozen storage cream. While frozen cream is not a disposition while kept in storage, nevertheless, its ultimate use is ordinarily in Class II disposition. If in any case it were used by a handler in Class I, the handler would be obligated for a compensatory payment at the rate applicable to nonfluid products used in Class I.

The producer-handler definition should be modified with respect to possible use of reconstituted fluid milk products. If a producer-handler were allowed to dispose of fluid milk products in the marketing area which are reconstituted from nonfluid products, he would have an inequitable advantage compared to fully regulated handlers. Nonfluid milk products such as nonfat dry milk may be purchased at a cost based on manufacturing milk values. If the producer-handler could use such nonfluid milk products as a source for Class I disposition, his cost would be considerably less than for fully regulated handlers who pay the full Class I price for producer milk so used. Further, if any fully regulated handler disposes of reconstituted fluid milk products as Class I, he is obligated to the pool for compensatory payment at the rate which is the difference between surplus milk value and Class I milk value.

If a producer-handler receives nonfluid forms of other source milk solely for purposes of fluid milk product fortification, this would not be objectionable. Fully regulated handlers also used nonfluid milk products in preparation of fortified fluid milk products. The handlers are

obligated for Class I classification only in an amount equal to the weight of an equal volume of unmodified product of the same nature and butterfat content.

To safeguard against the use by producer-handlers of nonfluid milk products for sale as reconstituted fluid milk products, it should be provided that a producer-handler's Class I disposition may not exceed his own farm production and receipts of fluid milk products from pool plants.

(b) *Classification and allocation—Inventory.* Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. This classification conforms with the ultimate utilization of most of the packaged fluid milk products in inventory. This results in less adjustment in classification and handlers' obligations than if classified in Class II. The order presently classifies all ending inventory of fluid milk products, both bulk and packaged, as Class II milk.

The adoption of the plan of classifying all fluid milk products on hand in packaged form at the end of the month as Class I milk will, in the long run, neither affect handlers' costs nor producers' returns. In the first month in which it is effective, it will increase handlers' costs by the difference between the Class I and Class II prices on the volume of packaged milk classified as inventory. This difference will be recovered, however, since there will be no reclassification charge on inventory of packaged fluid milk products allocated to Class I milk in subsequent months.

To insure that all handlers pay the current month's Class I milk price for fluid milk disposed of during the month, it is provided that if the Class I milk price increases over the previous month, the handler will be charged the difference between the Class I milk price for the current month and the Class I milk price for the preceding month on the quantity of ending inventory assigned to Class I milk in the preceding month. Likewise, if the Class I milk price decreases, the handler will receive a corresponding credit.

The allocation section of the order should provide that inventory of such packaged fluid milk products on hand at the beginning of the month be subtracted from Class I milk utilization immediately after the allocation of shrinkage and packaged fluid milk products from other orders and before making the other assignments therein provided. Inventory of fluid milk products in bulk form would continue to be handled as under the present provisions of the order.

Revision of shrinkage provisions. The Suburban St. Louis order now provides a limitation of 1.5 percent shrinkage in Class II on receipts of milk in bulk tank lots from various sources, except that a shrinkage limitation does not apply to receipts for which Class II utilization is requested by the handler.

The 1.5 percent limitation should apply in case of receipts from a cooperative association acting as a bulk tank handler, bulk receipts from other pool plants, and bulk receipts from nonpool plants whether or not regulated by another order.

In the case of milk purchased at a pool plant from a cooperative association acting as a bulk tank handler delivering milk from members' farms, the cooperative association is allowed one-half percent shrinkage and the pool plant is allowed 1.5 percent skrinkage. The order should also provide that if the pool plant operator gives notice to the market administrator that he desires to purchase the milk from the cooperative on the basis of quantities measured at the farm and butterfat tests from samples taken at the farm, then the plant operator should be allowed two percent shrinkage. In this case no shrinkage allowance to the cooperative association would be applicable.

The order should provide a shrinkage allowance of one-half percent on milk diverted in bulk tank lots to nonpool plants. The handling of this milk is similar to the handling of other bulk tank milk moved from farms to pool plants. The shrinkage allowance should be the same, except that if the nonpool plant operator purchases the milk on the basis of quantities measured at the farm and butterfat tests of samples taken at the farm, no shrinkage allowance would apply.

Animal feed and dumped. The order should be amended to allow classification in Class II of both the skim milk and butterfat in fluid milk products authorized by the market administrator to be dumped.

Presently the Suburban St. Louis order permits dumpage of only the skim milk portion of fluid milk products.

Permitting a handler to claim Class II on small quantities of butterfat in dumped products, however, would be proper in the case of products from which butterfat cannot practically be separated. This could include homogenized whole milk or route returns with low butterfat content.

Since dumping involves no transactions with others, the market administrator must have opportunity to verify the product and quantity, and such disposal should be only after his authorization.

The proposal to limit the skim milk and butterfat disposed of as animal feed during the month to the quantities of fluid milk products in route returns should not be adopted.

Presently the Suburban St. Louis order permits Class II classification for all skim milk and butterfat accounted for as disposed of for livestock feed. In most instances, it would be expected that fluid milk products disposed of for animal feed would be primarily nonsalvageable route returns. In some instances, however, there may be small quantities of skim milk and butterfat in fluid milk products which during processing becomes nonsalable for human consumption. It is reasonable that these quantities also be classified as Class II if disposed of as livestock feed. A plant operator should maintain sufficient records to establish in every instance the quantities of skim milk and butterfat involved, and show a written receipt for every sale as livestock feed.

Surplus disposal area. The surplus disposal area under the Suburban St. Louis order should be expanded to include that area within 500 miles of Vandalia, Ill.

Presently the order provides an area up to 450 miles from Vandalia within which handlers may dispose of reserve in Class II disposition. Previously this area had been considered sufficient for the orderly disposition of reserve milk. Beyond such mileage limit the order provided that disposition to nonpool plants would be Class I (except for cream under special labeling). Representatives of both producers and handlers supported an additional 50 miles as necessary for economic disposal of reserve milk.

The surplus disposal area proposed for the Central Illinois order is 350 miles from Peoria. Since Vandalia is about 150 miles from Peoria, the 500 miles herein recommended will result in virtually the same area.

An additional 50 miles will encompass an area within which are located a number of Wisconsin plants that producers and handlers stated serve as outlets for the markets' reserve supplies of milk. Thus, the additional area will assure that all manufacturing outlets normally used by handlers will be available for disposal of reserve milk supplies of the proposed Southern Illinois marketing area.

(c) *Class I prices.* It is necessary that several levels of Class I prices apply within the parts of the proposed Southern Illinois marketing area. This is necessary to reflect the differences in competitive relationships to other Federal order markets and the relative distances from areas of large reserve milk supplies. This would be accomplished by establishing pricing zones within the marketing area. The Class I price at each pool plant within a zone would be the same.

The various Class I price proposals made by producers and handlers all would provide for pricing zones. Some of these zone pricing proposals were in terms of the entire territory to be regulated under both the Central and Southern Illinois orders. All of the proposal would establish a gradation of pricing which would be highest in the southernmost zone and lowest in the Peoria area. The spread between the Peoria Class I price level and that for the southernmost zone varied among the various proposals from 21 to 45 cents.

The distance from Peoria to Carbondale is approximately 230 road miles, and from Peoria to Harrisburg about 250 road miles. In consideration of the cost of moving milk over such distances, a difference in price between southern and northern points in the two regulated areas is reasonable and feasible. Milk is moved over extensive distances within the proposed areas to be regulated, both as milk supplies to processing plants and as packaged milk moving out of processing plants. Based on assumed rates of transportation cost, such as the rate used in location differentials, a hypothetical price differential between Peoria

and the southernmost points in the proposed Southern Illinois marketing area might be calculated.

Such a calculation, however, would produce a price for the southern part of the Southern Illinois marketing area higher than was supported by producers supplying plants in such area. The price level proposed by producers for the southern portion would be equal to the St. Louis order Class I price, and would be determined by adding a differential of $1.40 to the basic formula price, and adjusting the result by the St. Louis order supply-demand adjustment. This proposed price would be 10 cents per hundredweight higher than the Class I price now applicable in this area.

The proposed level of Class I price is in agreement, however, with supply and demand conditions affecting the southern portion of the marketing area. This part of the proposed marketing area lies generally southeast of the St. Louis market in the direction of higher priced regulated areas and more distant from the area of reserve milk supplies. Milk supplies produced in the area are generally needed for Class I use by handlers. Its location in relation to other portions of the marketing area and surrounding markets, would naturally result in a higher cost of supplemental milk supplies than in areas to the north.

This price level equal to the St. Louis order Class I price should apply in the eight southernmost counties of the proposed marketing area including Randolph, Perry, Jackson, Franklin, Williamson, Hamilton, Saline, and White. Within this zone there are five plants presently regulated under the Suburban St. Louis order. There are two plants at Carbondale and one each at Chester, Marion, and Harrisburg, Ill. While the price herein proposed to be applicable at these plants will be higher than presently applicable, such price will not place them at a disadvantage in relation to other regulated prices under surrounding regulated areas. The Class I pricing under the St. Louis order in areas across the Mississippi is 15 cents higher. The Class I price formula under the Paducah order is also 15 cents over the St. Louis Class I price (official notice is taken of the amended order effective June 1, 1966 (31 F.R. 7963). The annual Class I price differential under the Louisville-Lexington-Evansville order is 13 cents higher.

Because of the close relationship of the proposed Southern Illinois market to the St. Louis market, it is desirable that the price relationship described herein be maintained on a month-to-month basis. This would be most easily accomplished by expressing the Class I price for the Southern Illinois order in terms of the St. Louis order price subject to adjustment by specified differentials.

It is necessary that the Class I price levels for areas intervening between the eight southern counties in the Southern Illinois marketing area be lower than the price in the eight southern counties and higher than the price at Peoria. This is necessary, as pointed out previously, because the plants to the north are nearer to the areas of reserve milk supply in Wisconsin and Iowa.

The intermediate Class I pricing should provide for two zones. This will result in smaller price differences compared to adjoining zones than would a single zone. Each step in price reduction toward the Central Illinois area should be 7 cents per hundredweight. This will result in a 7-cent difference also between the northern zone of the Southern Illinois order and the Class I price under the Central Illinois order.

One of these zones, herein called the base zone, would include the following counties: Bond, Calhoun, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Edwards, Effingham, Fayette, Greene, Jasper, Jefferson, Jersey, Lawrence, Macoupin, Madison, Marion, Monroe, Montgomery, Richland, St. Clair (except Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the City of Belleville), Shelby, Wabash, Washington, and Wayne.

The remaining counties would constitute the northern zone. These include Champaign, De Witt, Douglas, Edgar, Logan, Macon, McLean, Menard, Morgan, Moultrie, Piatt, Sangamon, and Vermilion.

Some of the plants included in the area herein designated as the base zone have been subject to location differential deductions under the present Suburban St. Louis order. The zone pricing, however, would establish the same level of class prices for broad bands of counties from west to east in the marketing area. This provides uniform pricing among handlers similarly situated as to supply and demand conditions.

(d) (1) *Location adjustments on milk received at pool plants directly from producer's farm.* No location adjustments should apply at plants located within the proposed Southern Illinois marketing area. Similarity of supply-demand conditions within each of the proposed pricing zones (northern zone, base zone, and southern zone) requires the same price level to all plants in each designated zone. The zone differentials on the Class I and uniform prices will properly reflect the relative value of milk received at various locations within the marketing area.

Location adjustments as now provided in the order should be revised to apply to milk which is received from producers at a pool plant located outside the marketing area and classified as Class I. It should be provided that the Class I price specified for the base zone be reduced 15 cents at a plant located 100 or more miles by the shortest highway distance from the nearer of the city or village limits of the following points: Alton, Ill.; Vandalia, Ill.; or Robinson, Ill. The Class I price should be reduced an additional 1.5 cents for each 10 miles or fraction thereof if such distance exceeds 110 miles.

Presently, location adjustments under the Suburban St. Louis order are measured from the nearest of the four basing points of either Alma, Alton, Benton, or Red Bud, Ill. The substantial marketing area expansion and the zone price structure herein recommended for the Southern Illinois order requires a change to the three basing points previously named. The use of Alton, Vandalia, and Robinson will provide appropriate recognition of the location value of producer milk received at a pool plant located north of the marketing area or at a similar distance in other directions from the base zone. The City of Alton is located on the western edge of the base zone, Vandalia in the center and Robinson on the eastern edge. Within 100 miles to the north of these three points is nearly all of the proposed Southern Illinois marketing area. The location differentials would apply also in other directions wherever a plant might be located.

In order that the Class I price at a plant outside the marketing area, but in the western counties of the State of Illinois, be properly aligned with the price structure of the nearby northern zone, it should be provided that the applicable Class I price at such a plant under the Southern Illinois order be equal to the Class I price applicable at a northern zone pool plant.

In the case of transfers of fluid milk products between pool plants, the limitation on assignment to Class I in the second plant should be modified. This assignment should be not more than the quantity by which 105 percent of Class I disposition at the transferee plant exceeds its receipts of producer milk and Class I assigned to other order milk and unregulated supply plant milk. The reasons for such tolerance factor are explained in the findings and conclusions on the Central Illinois order.

(d) (3), (4), and (5) *Price applicable for milk diverted to another pool plant or to an other order plant.* Milk diverted to another pool plant should be priced at the location of the pool plant to which it is diverted. This is necessary to assure uniform class prices to handlers according to the location of the plant where the milk is received from farmers.

When milk of a producer is diverted from one pool plant to another, the Class I price at the second plant may be higher or lower because of location or zone differentials. In either case, if any of the milk is used in Class I at the second plant, the Class I price at that plant should determine the use value. Otherwise, uniform class pricing to handlers would not be assured.

Although the proper Class I price would be established at the location of the second plant where the milk is physically received, the first handler, who diverted the milk, would be responsible to the pool for payment at such Class I price for any of the milk so used. This is his responsibility because the milk was diverted for his account. Further, by diverting the milk to a plant where the Class I price is higher, he has caused the milk to have a higher value in Class I than if delivered for such use at his own plant. The handling of the milk from farm to plant is identical with the handling of milk of producers regularly

delivering to the second plant, and should be similarly priced.

The producer's uniform price should be adjusted in the same manner to reflect the value of milk according to the location to which delivered. Such adjustment would be at the rates established under this order to be applicable to producer uniform prices.

(e) *Administrative provisions and conforming changes.* A specific provision concerning transportation rates has been deleted since such information will be reported on handler payrolls submitted each month.

For purposes of simplifying order payment provisions, payment to cooperative associations for milk delivered to pool plants for which the cooperative acts as the handler pursuant to § 1032.9(d) should be at the uniform price. This milk has been included in the modified definition of producer milk and would be subject to the same classification and allocation provisions as other producer milk. Payment for this milk at the uniform price will facilitate adjustments in payments if audit by the market administrator discloses an error in classification or other errors which change the handler's obligation. The payment of money due can then be handled through payments into and out of the producer-settlement fund. This avoids the added complications of billings and payments between the cooperative association and the handler.

It was proposed that the butterfat differential be changed for Class I purposes, to the level of the Class II butterfat differential. The use of the Class II butterfat differential should not be adopted because it would bring about a misalignment of prices with other markets which are closely associated with much of the proposed expanded marketing area. This would be particularly true for the nearby Central Illinois regulation since this proposal was not made for that order.

Although proponent suggested this would be an aid in the disposition of butterfat, it was not shown that any improvement in producer returns would result.

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 order (Part 1032) regulating the handling of milk in the Suburban St. Louis marketing area and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the proposed order for the Central Illinois marketing area and the tentative marketing agreement and the order as hereby proposed to be amended for the Suburban St. Louis marketing area 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 are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the proposed order for the Central Illinois marketing area and the tentative marketing agreement and the order as hereby proposed to be amended for the Suburban St. Louis marketing area will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of Industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreements and Orders

The following order for the Central Illinois marketing area and the order amending the order regulating the handling of milk in the Suburban St. Louis marketing area are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the respective orders as set forth herein.

Recommended Order (Part 1050) Regulating the Handling of Milk in the Central Illinois Marketing Area

Definitions

Market Administrator

Reports, Records, and Facilities

Classification

Minimum Prices

Application of Provisions

Determination of Uniform Price to Producers

Payments

Termination of Obligations

Miscellaneous Provisions

Authority: The provisions of this Part 1050 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Definitions

§ 1050.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Mar-

keting Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1050.2 Secretary.

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

§ 1050.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1050.4 Person.

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

§ 1050.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

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

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1050.6 Central Illinois marketing area.

The "Central Illinois marketing area" hereinafter called the "marketing area" means all the territory within the following counties all of which are in the State of Illinois together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county or municipal governments located wholly or partially within such counties:

Cass.	McDonough.
Ford.	Peoria.
Fulton.	Stark.
Knox.	Tazewell.
Livingston.	Warren.
Marshall.	Woodford.
Mason.	

§ 1050.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1050.14.

§ 1050.8 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a distributing plant and processes milk from his own farm production and who distributes all or a portion of such milk in the marketing area on a route but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: *Provided*, That the skim milk and butterfat disposed of in the form of fluid milk products designated as Class I milk pursuant to § 1050.41(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers; and

(b) Assumes as his personal enterprise and risk the processing and distributing of fluid milk products and the maintenance, care and management of dairy animals and other resources necessary to produce his own farm milk production.

§ 1050.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its members diverted for its account from a pool plant to a nonpool plant pursuant to § 1050.14;

(d) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. The cooperative association, prior to the 1st day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant described in § 1050.61.

§ 1050.10 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which Grade A fluid milk products are disposed of on a route(s) in the marketing area during the month.

§ 1050.11 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1050.12 Pool plant.

"Pool plant" means:

(a) A distributing plant, other than that of a producer-handler or one described in § 1050.61, from which during the month:

(1) Disposition of fluid milk products in the marketing area on routes is equal to 10 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1050.9(d), or from which an average of not less than 7,000 pounds per day of fluid milk products is distributed on routes in the marketing area; and

(2) Total disposition of fluid milk products on routes is equal to 50 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1050.9(d) during the months of August through February and 40 percent during all other months;

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 1050.9(d) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 50 percent Class I use of the total of such milk and producer milk receipts in the months of August through February and 40 percent in other months;

(c) Any supply plant during the months of March through July that was a pool plant during each of the preceding months of August through February unless the operator of such plant notifies the market administrator in writing before the 1st day of any such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section; and

(d) For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1050.14(b) (1), (2), and (3) by an operator of a pool plant.

§ 1050.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are 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, from which Grade A fluid milk products are shipped to a pool plant.

§ 1050.14 Producer milk.

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received during the month:

(1) At a pool plant from producers or from a cooperative association as a handler pursuant to § 1050.9(d): *Provided*, That milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling under the terms or provisions of another order issued pursuant to the Act shall not be producer milk; and

(2) By a cooperative association as a handler pursuant to § 1050.9(d) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1050.41(b)(7) or as Class I shrinkage; or

(b) Diverted by a handler who is the operator of a pool plant or by a cooperative association pursuant to the following conditions:

(1) Milk of a producer diverted from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted;

(2) Milk of a producer diverted from a pool plant to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act on any day during the months of May and June and in any other month for not more than 8 days of production of producer milk by such producer;

(3) Milk of a producer diverted during the month as Class II milk from a pool plant to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act for not more days of production of producer milk by such producer than is received at a pool plant(s) pursuant to paragraph (a) of this section: *Provided,* That milk so diverted shall not be producer milk if, notwithstanding the provisions of this subparagraph, the milk is fully subject to the pricing and pooling provisions of the other order;

(4) For pricing purposes milk diverted pursuant to subparagraph (2) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant from which diverted: *Provided,* That milk diverted to a plant located more than 110 miles from the City Hall of Peoria, Ill. (by the shortest highway distance as determined by the market administrator), shall be deemed to be received by the diverting handler at the location of the plant to which diverted; and

(5) For pricing purposes milk diverted pursuant to subparagraphs (1) and (3) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

§ 1050.15 Other source milk.

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

(a) Receipts during the month of fluid milk products except:

(1) Fluid milk products received from pool plants;

(2) Producer milk; and

(3) Inventory of fluid milk products on hand at the beginning of the month;

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

(c) Any disappearance of nonfluid milk products not otherwise accounted for.

§ 1050.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, plain or flavored milk and milk drinks (unmodified or fortified), including "dietary milk products" and reconstituted milk or skim milk; concentrated milk not in hermetically sealed containers, cream (sweet or sour), and mixtures of cream and milk or skim milk, but not including the following: Aerated cream products, frozen storage cream, cultured sour cream mixtures other than sour cream, eggnog, yogurt, frozen dessert mixes, evaporated or condensed milk, and sterilized fluid milk products in hermetically sealed containers.

§ 1050.17 Route.

"Route" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product to a retail or wholesale outlet (a) other than a pool plant or a nonpool plant, or (b) a commercial food processor pursuant to § 1050.41(b)(2).

§ 1050.18 Chicago butter price.

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

§ 1050.19 Reload point.

"Reload point" means a location at which facilities approved, by a health authority exercising jurisdiction in the marketing area, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided,* That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

MARKET ADMINISTRATOR

§ 1050.20 Designation.

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

§ 1050.21 Powers.

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

(a) Administer its terms and provisions;

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

(c) Make such rules and regulations as are necessary to effectuate its terms and provisions; and

(d) Recommended amendments to the Secretary.

§ 1050.22 Duties.

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

(a) Within 45 days following the date on which he enters on duty, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of his 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 the terms and provisions of this part;

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

(d) Pay from the funds received pursuant to § 1050.87, the cost of his bond and of the bonds of his employees, his own compensation and all other expenses, except those incurred under § 1050.88 that are necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this part as do not reveal confidential information;

(g) Verify all reports and payments of each handler by audit or such other investigation as may be necessary, of such handler's records and facilities and of the records and facilities of any other person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(h) Publicly announce on or before:

(1) The 6th day of each month, the minimum price for Class I milk, pursuant to § 1050.51(a), and the Class I butterfat differential, pursuant to § 1050.52(a), both for the current month; and the minimum price for Class II milk, pursuant to § 1050.51(b), and the Class II butterfat differential, pursuant to § 1050.52(b), both for the preceding month; and

(2) The 12th day after the end of each month, the uniform price, pursuant to § 1050.71, and the producer butterfat differential, pursuant to § 1050.81.

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be pro-

rated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class;

(j) The 12th day after the end of each month, report to each handler the amount and value of producer milk, amounts payable to or payable from the producer-settlement fund, and amounts due the administrative assessment and marketing service accounts;

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1050.45(a)(9) and the corresponding step of § 1050.45(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;

(l) 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 § 1050.45 pursuant to such report and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1050.30 Reports of receipts and utilization.

Not later than the 7th day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

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

(i) Milk received directly from producers showing separately any milk of the handler's own farm production;

(ii) Milk received from a cooperative association pursuant to § 1050.9(d);

(iii) Fluid milk products received from other pool plants; and

(iv) Other source milk;

(2) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;

(3) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of the disposition of Class I milk outside the marketing area;

(4) The name and address of each producer from whom milk was received with statements showing dates on which such producer started shipping and the date on which milk shipments stopped; and

(5) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require;

(b) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1050.9(c) or (d):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1050.9(c);

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1050.9(d); and

(4) Such other information with respect to receipts and utilization as the market administrator may prescribe;

(c) Each handler specified in § 1050.9(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(d) Each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1050.31 Other reports.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

§ 1050.32 Payroll reports.

(a) On or before the 20th day after the end of the month, each handler operating a pool plant for each of his pool plants and each cooperative association which is a handler pursuant to § 1050.9(c) or (d) shall report to the market administrator his producer payroll for that month, which shall show for each producer:

(1) His name and, if not previously reported, post office address and farm location (county) for each producer;

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

(3) The plant at which such milk was received;

(4) The days for which milk was received from such producer;

(5) The average butterfat content of such milk; and

(6) The net amount of the handler's payment to each producer and cooperative association, together with the price paid and the amount and nature of any deduction.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments as required pursuant to § 1050.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as required pursuant to paragraph (a) of this section.

§ 1050.33 Reports to cooperative associations.

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 1050.80(b) shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

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

(b) On or before the 7th day after the end of the month (1) the total pounds of milk received from each producer together with the butterfat content of such milk, and (2) the amount or rate and nature of any deductions authorized by a cooperative association.

§ 1050.34 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data which are required to be reported pursuant to §§ 1050.30 through 1050.33 and the payments required to be made pursuant to §§ 1050.80 through 1050.88.

§ 1050.35 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1050.40 Skim milk and butterfat to be classified.

All skim milk and butterfat to be reported by each handler pursuant to § 1050.30 shall be classified each month by the market administrator pursuant to the provisions of §§ 1050.41 through 1050.46.

§ 1050.41 Classes of utilization.

Subject to the conditions set forth in §§ 1050.42 to 1050.46 the classes of utilization shall be as follows:

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

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2), (3), (4), and (6) of this section. Fluid milk products which have been fortified by the addition of nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not accounted for as Class II.

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

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

(2) All skim milk and butterfat disposed of in bulk to commercial food processors and used in a food product prepared for consumption off the premises;

(3) All skim milk and butterfat authorized by the market administrator to be dumped;

(4) All skim milk and butterfat accounted for as disposed of for livestock feed;

(5) The inventories of bulk fluid milk products on hand at the end of the month;

(6) The skim milk and butterfat contained in that portion of "fortified" fluid milk products not classified as Class I pursuant to paragraph (a)(1) of this section;

(7) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1050.46(b)(1) for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1050.9 (c) and (d), not to exceed the quantities calculated pursuant to subdivisions (i) through (viii) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1050.9(d)) and milk diverted in bulk tank lots pursuant to § 1050.14; plus

(ii) One and one-half percent of fluid milk products received in bulk from other pool plants; plus

(iii) One and one-half percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1050.9(d) except that if the handler operating the pool plant files with the market administrator, prior to the 1st day of the month, notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of bulk transfers of milk to a pool plant of another handler (in the case of a cooperative association selling milk to a handler on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage shall be 2 percent); less

(vii) One and one-half percent of bulk transfers of milk to nonpool plants; less

(viii) One and one-half percent of milk diverted to nonpool plants (in the case of a nonpool plant receiving the milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph the percentage shall be 2 percent); and

(8) In shrinkage of skim milk and butterfat assigned pursuant to § 1050.46 (b)(2).

§ 1050.42 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified in another class: *Provided,* That in the case of milk delivered by a cooperative association in its capacity as a handler pursuant to § 1050.9(d) such responsibility shall be that of the plant operator receiving such milk; and

(b) Any skim milk or butterfat classified in one class shall be reclassified if verification by the market administrator reveals that such classification was incorrect.

§ 1050.43 Transfers and diversions.

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

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, 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 § 1050.45(a)(9) and the corresponding step of § 1050.45 (b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1050.45(a)(4) and the corresponding step of § 1050.45 (b), the skim milk and butterfat so transferred or diverted 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 § 1050.45(a) (8) and (9) and the corresponding steps of § 1050.45(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 packaged form to a nonpool plant which is not an other order plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 350 miles by the shortest highway distance as determined by the market administrator from the City Hall of Peoria, Ill., except that cream so transferred may be classified as Class II if the handler claims Class II use and establishes that such cream was transferred to a nonpool plant without Grade A certification and that each container was labeled or tagged to indicate that the contents were for manufacturing use and that the shipment was so invoiced;

(e) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 350 miles, by the shortest highway distance as determined by the market administrator, from the City Hall in Peoria, Ill., 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 § 1050.30 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 or diverted 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 Grade A 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 subdivisions (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; and

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

(f) As follows, if transferred or diverted 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 or diverted 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 the 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;

(6) If the form in which any fluid milk product is transferred or diverted to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1050.41; and

(g) As Class II if diverted to an other order plant if the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators and sufficient Class II utilization (or comparable utilization under such other order) is available in the other order plant for such assignment after assignment of milk transferred pursuant to paragraph (f) of this section subject to the rules of allocation of the other order.

§ 1050.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1050.30(a) and (b) and compute the total pounds of skim milk and butterfat, respectively, in each class: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids. Such computations shall be as follows:

(a) If any fluid milk products to be allocated pursuant to § 1050.45(a) (8) or (9) were received at any pool plant of a handler, there will be computed for such handler the total pounds of skim milk and butterfat, respectively, in each class at all of his pool plants combined, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1050.45 and computation of obligation pursuant to § 1050.70 shall be based upon the combined utilization so computed;

(b) If no fluid milk products to be allocated pursuant to § 1050.45(a) (8) or (9) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class will be computed for each pool plant of such handler, and allocation pursuant to § 1050.45 shall be made separately for each pool plant of the handler; and

(c) There will be computed for each cooperative association reporting pursuant to § 1050.30(b) the total pounds of skim milk and butterfat, respectively, in producer milk pursuant to § 1050.14 (a) (2) and (b) (2) and (3). The amounts so determined shall be those used for computation pursuant to § 1050.45(c).

§ 1050.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1050.44, the market administrator shall determine the classification of producer milk for each handler at all his pool plants (or at each pool plant, when § 1050.44(b) applies) 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 § 1050.41(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) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II;

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25; and

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II, if Class II utilization was requested by the transferee handler and the operator of the transferor plant requests such utilization;

(6) 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 bulk fluid milk products (and for the first month the order is effective the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

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

(8) 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 that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar

transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1050.22(k); or

(b) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (and of the same handler, when § 1050.44(b) applies) according to the classification assigned pursuant to § 1050.43(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1050.44(c) into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1050.46 Shrinkage.

The market administrator shall:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and

(b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:

(1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1050.41(b)(7); and

(2) Skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1050.41(b)(7).

Minimum Prices

§ 1050.50 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 Department 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 Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1050.51 Class prices.

The respective minimum prices per hundredweight to be paid by each handler, f.o.b. his plant, for milk received from producers or from a cooperative association during the month shall be as follows:

(a) *Class I price.* The Class I price applicable at plants at which no location adjustment pursuant to § 1050.53 is applicable, shall, for the first 18 months beginning with the effective date of this provision, be the basic formula price for the preceding month plus $1.39 during each of the months of August through November, $0.99 during each of the months of March through June and plus $1.19 in other months: *Provided,* That such price shall be reduced 24 cents by the Class I equivalent price factor (determined April 10, 1966, 31 F.R. 5685) applicable pursuant to Part 1062 of this chapter (St. Louis): *And provided further,* That the Class I price so computed shall not be less than the Class I price computed pursuant to Part 1062 of this chapter (St. Louis) minus 21 cents; and

(b) *Class II price.* The Class II price shall be the basic formula price for the month.

§ 1050.52 Butterfat differentials to handlers.

For each class of milk containing more or less than 3.5 percent butterfat, the class price calculated pursuant to § 1050.51 shall be increased or decreased, respectively, for each one-tenth of a percent of butterfat at a rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12;

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

§ 1050.53 Location adjustments to handlers.

(a) For producer milk and other source milk which is classified as Class I at a pool plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Henderson, Warren, Knox, Stark, Marshall, Livingston, Ford, and Iroquois, the price specified in § 1050.51(a) shall be reduced 7.5 cents if such plant is 50 or more miles by the shortest highway distance, as determined by the market administrator from the City Hall in Peoria, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1050.9(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1050.54 Use of equivalent prices.

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

Application of Provisions

§ 1050.60 Producer-handlers.

Sections 1050.40 through 1050.54 and 1050.61 through 1050.90 shall not apply to a producer-handler.

§ 1050.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except that such handler shall, with respect to his total receipts and disposition of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A distributing plant qualified pursuant to § 1050.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products is disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Central Illinois marketing area: *Provided,* That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this paragraph;

(b) A distributing plant qualified pursuant to § 1050.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk is disposed of during the month in the Central Illinois marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation even though such plant has greater Class I route disposi-

tion in the marketing area of the Central Illinois order; and

(c) Any plant qualified pursuant to § 1050.12(c) for any portion of the period of March through July, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1050.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1050.30(c) and 1050.32(b) 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 § 1050.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts of such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1050.70(f) and a credit in the amount specified in § 1050.84(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 reports pursuant to §§ 1050.30(c) and 1050.32(b) 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 § 1050.12 (b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

Determination of Uniform Price to Producers

§ 1050.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (for each pool plant when § 1050.44(b) applies) during each month shall be a sum of money computed by the market administrator as follows:

(a) With respect to producer milk received by a pool handler (excluding milk received by diversion from another pool plant), multiply the quantity in each class as computed pursuant to § 1050.45 (c) by the applicable class prices (adjusted pursuant to §§ 1050.52 and 1050.53) excluding in the case of a cooperative association as a handler pursuant to § 1050.9(d), milk received by it and delivered to the pool plant of another handler;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1050.45(a)(11) and the corresponding step of § 1050.45(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 § 1050.45(a)(6) and the corresponding step of § 1050.45(b);

(d) Add an amount determined by multiplying the difference between the Class I 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 § 1050.45(a)(3) and the corresponding step of § 1050.45(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount;

(e) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1050.45(a)(4) and the corresponding step of § 1050.45(b); and

(f) Add an amount equal to the value at the Class I price, adjusted for location at the nearest nonpool plant(s) from which an equivalent volume was received with respect to skim milk and butterfat subtracted from Class I pursuant to § 1050.45(a)(8) and the corresponding step of § 1050.45(b). With respect to skim milk and butterfat which is subtracted from Class I pursuant to § 1050.45(a)(8) and the coresponding step of § 1050.45 (b), add an amount equal to its value at the Class I price applicable at the pool plant.

§ 1050.71 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants at which no location adjustment pursuant to § 1050.53 is applicable as follows:

(a) Combine into one total the values computed pursuant to § 1050.70 for all handlers who filed the reports prescribed by § 1050.30 for the month and who made the payments pursuant to §§ 1050.80 and 1050.84 for the preceding month;

(b) Add an amount equal to the sum of the location and zone differentials computed pursuant to § 1050.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1050.81 and multiplying the result by the total hundredweight of such milk;

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

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1050.70(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June, and July, an amount equal to 10 cents per hundred-

weight on the total hundredweight of producer milk specified in paragraph (e) (1) of this section;

(i) Add during each of the months of October, November, and December, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1050.72 Notification of handlers.

On or before the 12th day after the end of each month, the market administrator shall mail to each handler at his last known address, a statement showing:

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

(b) The uniform price computed pursuant to § 1050.71 and the butterfat differential computed pursuant to § 1050.81; and

(c) The amounts to be paid by such handler pursuant to §§1050.84, 1050.87, and 1050.88 and the amount due such handler pursuant to § 1050.85.

PAYMENTS

§ 1050.80 Time and method of payment for producer milk.

(a) On or before the 20th day of the following month, each handler shall make payment to each producer for milk received from such producer during such month:

(1) An amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less marketing service deductions made pursuant to §1050.88;

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

(iii) Less proper deductions authorized in writing by such producer: *Provided,* That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1050.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1050.5 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 18th day of the following month pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided,* That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association; and

(c) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1050.9(d) shall pay such cooperative association for such milk at the uniform price adjusted by applicable butterfat and location adjustments.

§ 1050.81 Butterfat differential to producers.

In making payments for milk received from producers pursuant to § 1050.80 the uniform price shall be adjusted by adding or subtracting, respectively, for each one-tenth of 1 percent by which the average butterfat content of such milk is more or less than 3.5 percent, respectively, an amount determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined by § 1050.52, dividing by the total butterfat in producer milk, and rounding to the nearest tenth of a cent.

§ 1050.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1050.53; and

(b) For purposes of computations pursuant to §§ 1050.84 and 1050.85 the weighted average price shall be adjusted at the rates set forth in § 1050.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1050.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows: (a) All payments made by handlers pursuant to §§ 1050.62, 1050.84, and 1050.86 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1050.85 and 1050.86: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler; and (b) all amounts subtracted pursuant to § 1050.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1050.80 in accordance with the requirements of § 1050.71(i).

§ 1050.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The sum of the net pool obligation computed pursuant to § 1050.70 for such handler;

(b) The sum of:

(1) The value of producer milk received by such handler at the applicable uniform prices specified in § 1050.80 excluding in the case of a cooperative association as a pool handler pursuant to § 1050.9(d) the value of milk delivered to pool plants of other handlers; and

(2) The value at the weighted-average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1050.70(e).

§ 1050.85 Payments out of the producer-settlement fund.

On or before the 17th 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 § 1050.84(b) exceeds the amount computed pursuant to § 1050.84(a). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1050.86 Adjustment of accounts.

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

§ 1050.87 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 20th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

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

(b) Other source milk allocated to Class I pursuant to § 1050.45(a) (3) and (7) and the corresponding steps of § 1050.45(b); and

(c) Class I milk disposed of on routes 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.

§ 1050.88 Marketing services.

(a) *Deduction of marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 1050.80, shall deduct 6 cents per hun-

dredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month. Such monies shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

§ 1050.89 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to § 1050.84, § 1050.85, § 1050.87, or § 1050.88 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

TERMINATION OF OBLIGATIONS

§ 1050.90 Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on 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 an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the account 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 representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1050.100 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1050.101.

§ 1050.101 Suspension or termination.

The Secretary may supsend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1050.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1050.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1050.104 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.

§ 1050.105 Separability of provisions.

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

Amendments to Part 1032 Regulating the Handling of milk in the Suburban St. Louis Marketing Area.

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AUTHORITY: The provisions of this Part 1032 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

DEFINITIONS

§ 1032.1 Act.

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

§ 1032.2 Secretary.

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

§ 1032.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1032.4 Person.

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

§ 1032.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

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

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1032.6 Southern Illinois marketing area.

"Southern Illinois marketing area" hereinafter called the "marketing area" means all the territory within the following counties all of which are in the State of Illinois together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties:

BASE ZONE

Bond.	Macoupin.
Calhoun.	Madison.
Christian.	Marion.
Clark.	Monroe.
Clay.	Montgomery.
Clinton.	Richland.
Coles.	St. Clair (except Scott Military Reservation, East St. Louis, Centreville, Canteen and Stites Townships and the city of Belleville).
Crawford.	
Cumberland.	
Edwards.	
Effingham.	
Fayette.	
Greene.	
Jasper.	Shelby.
Jefferson.	Wabash.
Jersey.	Washington.
Lawrence.	Wayne.

NORTHERN ZONE

Champaign.	Menard.
De Witt.	Morgan.
Douglas.	Moultrie.
Edgar.	Piatt.
Logan.	Sangamon.
Macon.	Vermilion.
McLean.	

SOUTHERN ZONE

Franklin.	Randolph.
Hamilton.	Saline.
Jackson.	White.
Perry.	Williamson.

§ 1032.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1032.14.

§ 1032.8 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a distributing plant and processes milk from his own farm production and who distributes all or a portion of such milk in the marketing area on a route but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: *Provided*, That the skim milk and butterfat disposed of in the form of fluid milk products designated as Class I milk pursuant to § 1032.41(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers; and

(b) Assumes as his personal enterprise and risk the processing and distribution of fluid milk products and the maintenance, care and management of dairy animals and other resources, necessary to produce his own farm milk production.

§ 1032.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its members diverted for its account from a pool plant to a nonpool plant pursuant to § 1032.14;

(d) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. The cooperative association, prior to the first day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant described in § 1032.61.

§ 1032.10 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which Grade A fluid milk products are disposed of on a route(s) in the marketing area during the month.

§ 1032.11 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1032.12 Pool plant.

"Pool plant" means:

(a) A distributing plant, other than that of a producer-handler or one described in § 1032.61, from which during the month:

(1) Disposition of fluid milk products in the marketing area on routes is equal to 10 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1032.9(d), or from which an average of not less than 7,000 pounds per day of fluid milk products is distributed on routes in the marketing area; and

(2) Total disposition of fluid milk products on routes is equal to 50 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1032.9(d) during the months of August through February and 40 percent during all other months;

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and from cooperative associations in their capacity as

handlers pursuant to § 1032.9(d) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 50 percent Class I use of the total of such milk and producer milk receipts in the months of August through February and 40 percent in other months;

(c) Any supply plant during the months of March through July that was a pool plant during each of the preceding months of August through February, unless the operator of such plant notifies the market administrator in writing before the first day of any such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section; and

(d) For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1032.14(b) (1), (2), and (3) by an operator of a pool plant.

§ 1032.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are 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, from which Grade A fluid milk products are shipped to a pool plant.

§ 1032.14 Producer milk.

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received during the month:

(1) At a pool plant from producers or from a cooperative association as a handler pursuant to § 1032.9(d): *Provided*, That milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling under the terms or provisions of another order issued pursuant to the Act shall not be producer milk; and

(2) By a cooperative association as a handler pursuant to § 1032.9(d) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1032.41(b)(7) or as Class I shrinkage; or

(b) Diverted by a handler who is the operator of a pool plant or by a cooperative association pursuant to the following conditions:

(1) Milk of a producer diverted from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted;

(2) Milk of a producer diverted from a pool plant to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act on any day during the months of May and June and in any other month for not more than 8 days of production of producer milk by such producer;

(3) Milk of a producer diverted during the month as Class II milk from a pool plant to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act for not more days of production of producer milk by such producer than is received at a pool plant(s) pursuant to paragraph (a) of this section: *Provided*, That milk so diverted shall not be producer milk if, notwithstanding the provisions of this subparagraph, the milk is fully subject to the pricing and pooling provisions of the other order;

(4) For pricing purposes milk diverted pursuant to subparagraph (2) of this paragraph, to a plant located more than 50 miles (by the shortest highway distance as determined by the market administrator) from the pool plant from which diverted, shall be deemed to be received by the diverting handler at the location of the plant to which diverted; and

(5) For pricing purposes milk diverted pursuant to subparagraphs (1) and (3) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

§ 1032.15 Other source milk.

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

(a) Receipts during the month of fluid milk products except:

(1) Fluid milk products received from pool plants;

(2) Producer milk; and

(3) Inventory of fluid milk products on hand at the beginning of the month;

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

(c) Any disappearance of nonfluid milk products not otherwise accounted for.

§ 1032.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, plain or flavored milk and milk drinks (unmodified or fortified), including "dietary milk products" and reconstituted milk or skim milk, concentrated milk not in hermetically sealed containers, cream (sweet or sour), and mixtures of cream and milk or skim milk, but not including the following: Aerated cream products, frozen storage cream, cultured sour cream mixtures other than sour cream, eggnog, yogurt, frozen dessert mixes, evaporated or condensed milk, and sterilized fluid milk products in hermetically sealed containers.

§ 1032.17 Route.

"Route" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product to a retail or wholesale outlet (a) other than a pool plant or a nonpool plant, or (b) a commercial food processor pursuant to § 1032.41(b)(2).

§ 1032.18 Chicago butter price.

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

§ 1032.19 Reload point.

"Reload point" means a location at which facilities approved, by a health authority exercising jurisdiction in the marketing area, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided*, That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing, and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

MARKET ADMINISTRATOR

§ 1032.20 Designation.

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

§ 1032.21 Powers.

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

(a) Administer its terms and provisions:

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

(c) Make such rules and regulations as are necessary to effectuate its terms and provisions; and

(d) Recommend amendments to the Secretary.

§ 1032.22 Duties.

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

(a) Within 45 days following the date on which he enters on duty, or such lessor period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on

which he enters upon his duties and conditioned upon the faithful performance of his 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 the terms and provisions of this part;

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

(d) Pay from the funds received pursuant to § 1032.87, the cost of his bond and of the bonds of his employees, his own compensation and all other expenses, except those incurred under § 1032.88 that are necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this part as do not reveal confidential information;

(g) Verify all reports and payments of each handler by audit or such other investigation as may be necessary, of such handler's records and facilities and of the records and facilities of any other person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(h) Publicly announce on or before:

(1) The 6th day of each month, the minimum price for Class I milk, pursuant to § 1032.51(a), and the Class I butterfat differential, pursuant to § 1032.52(a), both for the current month; and the minimum price for Class II milk, pursuant to § 1032.51(b), and the Class II butterfat differential, pursuant to § 1032.52(b), both for the preceding month; and

(2) The 12th day after the end of each month, the uniform price, pursuant to § 1032.71, and the producer butterfat differential, pursuant to § 1032.81.

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class;

(j) The 12th day after the end of each month, report to each handler the amount and value of producer milk, amounts payable to or payable from the producer-settlement fund, and amounts due the administrative assessment and marketing service accounts;

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1032.45(a)(9) and the corresponding step of § 1032.45(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;

(l) 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 § 1032.45 pursuant to such report and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1032.30 Reports of receipts and utilization.

Not later than the 7th day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

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

(i) Milk received directly from producers showing separately any milk of the handler's own farm production;

(ii) Milk received from a cooperative association pursuant to § 1032.9(d);

(iii) Fluid milk products received from other pool plants; and

(iv) Other source milk;

(2) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;

(3) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of the disposition of Class I milk outside the marketing area;

(4) The name and address of each producer from whom milk was received with statements showing dates on which such producer started shipping and the date on which milk shipments stopped; and

(5) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require;

(b) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1032.9 (c) or (d):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1032.9(c);

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1032.9(d); and

(4) Such other information with respect to receipts and utilization as the market administrator may prescribe;

(c) Each handler specified in § 1032.9 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(d) Each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1032.31 Other reports.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

§ 1032.32 Payroll reports.

(a) On or before the 20th day after the end of the month, each handler operating a pool plant for each of his pool plants and each cooperative association which is a handler pursuant to § 1032.9 (c) or (d) shall report to the market administrator his producer payroll for that month, which shall show for each producer:

(1) His name and, if not previously reported, post office address and farm location (county) for each producer;

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

(3) The plant at which such milk was received;

(4) The days for which milk was received from such producer;

(5) The average butterfat content of such milk; and

(6) The net amount of the handler's payment to each producer and cooperative association, together with the price paid and the amount and nature of any deduction.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments as required pursuant to § 1032.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as required pursuant to paragraph (a) of this section.

§ 1032.33 Reports to cooperative associations.

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 1032.80(b)

shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

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

(b) On or before the 7th day after the end of the month (1) the total pounds of milk received from each producer together with the butterfat content of such milk, and (2) the amount or rate and nature of any deductions authorized by a cooperative association.

§ 1032.34 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data which are required to be reported pursuant to §§ 1032.30 through 1032.33 and the payments required to be made pursuant to §§ 1032.80 through 1032.88.

§ 1032.35 Retention of records.

All books and records required under this part to be made available to the market adminstrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1032.40 Skim milk and butterfat to be classified.

All skim milk and butterfat to be reported by each handler pursuant to § 1032.30 shall be classified each month by the market administrator pursuant to the provisions of §§ 1032.41 through 1032.46.

§ 1032.41 Classes of utilization.

Subject to the conditions set forth in §§ 1032.42 to 1032.46 the classes of utilization shall be as follows:

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

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraphs (b)(2), (3), (4), and (6) of this section. Fluid milk products which have been fortified by the addition of nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not accounted for as Class II.

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

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

(2) All skim milk and butterfat disposed of in bulk to commercial food processors and used in a food product prepared for consumption off the premises;

(3) All skim milk and butterfat authorized by the market administrator to be dumped;

(4) All skim milk and butterfat accounted for as disposed of for livestock feed;

(5) The inventories of bulk fluid milk products on hand at the end of the month;

(6) The skim milk and butterfat contained in that portion of "fortified" fluid milk products not classified as Class I pursuant to paragraph (a)(1) of this section;

(7) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1032.46(b)(1) for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1032.9 (c) and (d), not to exceed the quantities calculated pursuant to subdivisions (i) through (viii) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1032.9(d)) and milk diverted in bulk tank lots pursuant to § 1032.14; plus

(ii) One and one-half percent of fluid milk products received in bulk from other pool plants; plus

(iii) One and one-half percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1032.9(d) except that if the handler operating the pool plant files with the market administrator, prior to the 1st day of the month, notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of bulk transfers of milk to a pool plant of another handler (in the case of a cooperative association selling milk to a handler on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage shall be 2 percent); less

(vii) One and one-half percent of bulk transfers of milk to nonpool plants; less

(viii) One and one-half percent of milk diverted to nonpool plants (in the case of a nonpool plant receiving the milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph the percentage shall be 2 percent); and

(8) In shrinkage of skim milk and butterfat assigned pursuant to § 1032.46(b)(2).

§ 1032.42 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified in another class: *Provided,* That in the case of milk delivered by a cooperative association in its capacity as a handler pursuant to § 1032.9(d) such responsibility shall be that of the plant operator receiving such milk; and

(b) Any skim milk or butterfat classified in one class shall be reclassified if verification by the market administrator reveals that such classification was incorrect.

§ 1032.43 Transfers and diversions.

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

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, 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 § 1032.45(a)(9) and the corresponding step of § 1032.45(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1032.45(a)(4) and the corresponding step of § 1032.45(b), 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 § 1032.45(a)(8) and (9) and the corresponding steps of § 1032.45(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 packaged form to a nonpool plant which is not an other order plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 500 miles by the shortest highway distance as determined by the market administrator from the city hall of Vandalia, Ill., except that cream so transferred may be classified as Class II if the handler claims Class II use and establishes that such cream was transferred to a nonpool plant without Grade A certification and that each container was labeled or tagged to indicate that the contents were for manufacturing use and that the shipment was so invoiced;

(e) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 500 miles, by the shortest highway distance as determined by the market administrator, from the city hall of Vandalia, Ill., 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 § 1032.30 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 or diverted 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 Grade A 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 subdivisions (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; and

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

(f) As follows, if transferred or diverted 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 or diverted 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 the 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;

(6) If the form in which any fluid milk product is transferred or diverted to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1032.41; and

(g) As Class II if diverted to an other order plant if the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators and sufficient Class II utilization (or comparable utilization under such other order) is available in the other order plant for such assignment after assignment of milk transferred pursuant to paragraph (f) of this section subject to the rules of allocation of the other order.

§ 1032.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1032.30 (a) and (b) and compute the total pounds of skim milk and butterfat, respectively, in each class: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids. Such computations shall be as follows:

(a) If any fluid milk products to be allocated pursuant to § 1032.45(a) (8) or (9) were received at any pool plant of a handler, there will be computed for such handler the total pounds of skim milk and butterfat, respectively, in each class at all of his pool plants combined, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1032.45 and computation of obligation pursuant to § 1032.70 shall be based upon the combined utilization so computed;

(b) If no fluid milk products to be allocated pursuant to § 1032.45(a) (8) or (9) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class will be computed for each pool plant of such handler, and allocation pursuant to § 1032.45 shall be made separately for each pool plant of the handler; and

(c) There will be computed for each cooperative association reporting pursuant to § 1032.30(b) the total pounds of skim milk and butterfat, respectively, in producer milk pursuant to § 1032.14 (a)(2) and (b) (2) and (3). The amounts so determined shall be those used for computation pursuant to § 1032.45(c).

§ 1032.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1032.44, the market administrator shall determine the classification of producer milk for each handler at all his pool plants (or at each pool plant, when § 1032.44(b) applies) 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 § 1032.41(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 two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk re-

maining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II;

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25; and

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II, if Class II utilization was requested by the transferee handler and the operator of the transferor plant requests such utilization;

(6) 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 bulk fluid milk products (and for the first month the order is effective the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

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

(8) 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 that were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure;

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1032.22(k); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (and of the same handler, when § 1032.44(b) applies) according to the classification assigned pursuant to § 1032.43(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1032.44(c) into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1032.46 Shrinkage.

The market administrator shall:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and

(b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:

(1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1032.41 (b) (7); and

(2) Skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1032.41(b) (7).

Minimum Prices

§ 1032.50 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 Department 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 Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1032.51 Class prices.

The respective minimum prices per hundredweight to be paid by each handler, f.o.b. his plant, for milk received from producers or from a cooperative association during the month shall be as follows:

(a) *Class I price.* (1) The Class I price applicable at plants located in the base zone shall, for the first 18 months beginning with the effective date of this provision, be the basic formula price for the preceding month plus $1.53 during each of the months of August through November, $1.13 during each of the months of March through June and plus $1.33 in other months: *Provided,* That such price shall be reduced 24 cents by the Class I equivalent price factor (determined Apr. 10, 1966, 31 F.R. 5685) applicable pursuant to Part 1062 of this chapter (St. Louis): *And provided further,* That such price shall be increased or decreased, respectively, by whatever amount the Class I price computed pursuant to Part 1062 of this chapter (St. Louis) is increased or decreased by the supply-demand adjustor computed for such month under such part and in no event be less than the Class I price of Part 1062 of this chapter (St. Louis) minus 7 cents;

(2) At pool plants located in the southern zone, the Class I price shall be 7 cents greater than the price computed pursuant to subparagraph (1) of this paragraph; and

(3) At plants located in the northern zone, the Class I price shall be 7 cents less than the price computed pursuant to subparagraph (1) of this paragraph; and

(b) *Class II price.* The Class II price shall be the basic formula price for the month.

§ 1032.52 Butterfat differentials to handlers.

For each class of milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1032.51 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat at a rate rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12; and

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

§ 1032.53 Location adjustments to handlers.

(a) For producer milk and other source milk which is classified as Class I at a pool plant located outside the marketing area, the price specified in § 1032.51(a) (1) for the base zone, shall be reduced 15 cents if such plant is 100 or more miles by the shortest highway distance, as determined by the market administrator from the nearer of the city or village limits of Alton, Robinson, or Vandalia, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles: *Provided,* That the Class I price at a pool plant outside the marketing area and in the State of Illinois south of the northernmost boundaries of the Illinois counties of Adams and Schuyler shall be the

Class I price applicable at a pool plant located in the northern zone; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1032.9(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1032.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1032.60 Producer-handlers.

Sections 1032.40 through 1032.54 and 1032.61 through 1032.90 shall not apply to a producer-handler.

§ 1032.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except that such handler shall, with respect to his total receipts and disposition of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A distributing plant qualified pursuant to § 1032.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products is disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Southern Illinois marketing area; *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this paragraph;

(b) A distributing plant qualified pursuant to § 1032.12 which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk is disposed of during the month in the Southern Illinois marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation even though such plant has greater Class I route disposition in the marketing area of the Southern Illinois order; and

(c) Any plant qualified pursuant to § 1032.12(c) for any portion of the period of March through July, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1032.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1032.30(c) and 1032.32(b) 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 § 1032.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts of such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1032.70(f) and a credit in the amount specified in § 1032.84(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 reports pursuant to §§ 1032.30(c) and 1032.32(b) 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 § 1032.12 (b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 1032.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (for each pool plant when § 1032.44(b) applies) during each month shall be a sum of money computed by the market administrator as follows:

(a) With respect to producer milk received by a pool handler (excluding milk received by diversion from another pool plant), multiply the quantity in each class, as computed pursuant to § 1032.45(c) by the applicable class prices (adjusted pursuant to §§ 1032.52 and 1032.53) excluding in the case of a cooperative association as a handler pursuant to § 1032.9(d), milk received by it and delivered to the pool plant of another handler;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1032.45(a)(11) and the corresponding step of § 1032.45(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 § 1032.45(a)(6) and the corresponding step of § 1032.45(b);

(d) Add an amount determined by multiplying the difference between the Class I 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 § 1032.45(a)(3) and the corresponding step of § 1032.45(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount;

(e) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1032.45(a)(4) and the corresponding step of § 1032.45(b); and

(f) Add an amount equal to the value at the Class I price, adjusted for location at the nearest nonpool plant(s) from which an equivalent volume was received with respect to skim milk and butterfat subtracted from Class I pursuant to § 1032.45(a)(8) and the corresponding step of § 1032.45(b). With respect to skim milk and butterfat which is subtracted from Class I pursuant to § 1032.45(a)(8) and the corresponding step of § 1032.45(b), add an amount equal to its value at the Class I price applicable at the pool plant.

§ 1032.71 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants located in the "base zone" as follows:

(a) Combine into one total the values computed pursuant to § 1032.70 for all handlers who filed the reports prescribed by § 1032.30 for the month and who made the payments pursuant to §§ 1032.80 and 1032.84 for the preceding month;

(b) Add an amount equal to the value of the net location and zone differentials (reductions minus increases) applicable to the uniform price pursuant to § 1032.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1032.81 and multiplying the result by the total hundredweight of such milk;

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

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.70(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June, and July, an amount equal to 10 cents per hundred weight on the total hundredweight of producer milk specified in paragraph (e)(1) of this section;

(i) Add during each of the months of October, November, and December, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1032.72 Notification of handlers.

On or before the 12th day after the end of each month, the market administrator shall mail to each handler at his last known address, a statement showing:

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

(b) The uniform price computed pursuant to § 1032.71 and the butterfat differential computed pursuant to § 1032.81; and

(c) The amounts to be paid by such handler pursuant to §§ 1032.84, 1032.87, and 1032.88 and the amount due such handler pursuant to § 1032.85.

PAYMENTS

§ 1032.80 Time and method of payment for producer milk.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, each handler shall make payment for milk received during the month as follows:

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

(2) On or before the 20th day of the following month to each producer, an amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

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

(ii) Less marketing service deductions made pursuant to § 1032.88;

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

(iv) Less proper deductions authorized in writing by such producer: *Provided*, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1032.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1032.5 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 18th day of the following month pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 18th day after the end of each month, each handler shall pay to each cooperative association for milk received from such association by transfer or diversion an amount of money computed by multiplying the total pounds of such milk in each class (pursuant to § 1032.43) by the class price applicable at the location of the pool plant at which such milk is physically received;

(d) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1032.9(d) shall pay such cooperative association for such milk at the uniform price adjusted by applicable butterfat and location adjustments; and

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

§ 1032.81 Butterfat differential to producers.

In making payments for milk received from producers pursuant to § 1032.80 the uniform price shall be adjusted by adding or subtracting, respectively, for each one-tenth of 1 percent by which the average butterfat content of such milk is more or less than 3.5 percent, respectively, an

amount determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined by § 1032.52, dividing by the total butterfat in producer milk, and rounding to the nearest tenth of a cent.

§ 1032.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk, received at a pool plant located outside the marketing area, shall be reduced according to the location of the pool plant at the rates set forth in § 1032.53;

(b) In making payments pursuant to § 1032.80, the uniform price per hundredweight for producer milk received at pool plants located:

(1) In the southern zone shall be increased 7 cents; and

(2) In the northern zone shall be reduced 7 cents; and

(c) For purposes of computations pursuant to §§ 1032.84 and 1032.85 the weighted average price shall be adjusted at the rates, set forth in § 1032.53 or paragraph (b) of this section, applicable at the location of the nonpool plant from which the milk was received.

§ 1032.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows: (a) All payments made by handlers pursuant to §§ 1032.62 (a) and (b), 1032.84, and 1032.86 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1032.85 and 1032.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler; and (b) all amounts subtracted pursuant to § 1032.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1032.80 in accordance with the requirements of § 1032.71(i).

§ 1032.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The sum of the net pool obligation computed pursuant to § 1032.70 for such handler;

(b) The sum of:

(1) The value of producer milk received by such handler at the applicable uniform prices specified in § 1032.80 excluding in the case of a cooperative association as a pool handler pursuant to § 1032.9(d) the value of milk delivered to pool plants of other handlers; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1032.70(e).

§ 1032.85 Payments out of the producer-settlement fund.

On or before the 17th 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 § 1032.84(b) exceeds the amount computed pursuant to § 1032.84(a). The market administrator shall offset any payment due any handler against any payments due from such handler.

§ 1032.86 Adjustment of accounts.

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

§ 1032.87 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 20th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

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

(b) Other source milk allocated to Class I pursuant to § 1032.45(a) (3) and (7) and the corresponding steps of § 1032.45(b); and

(c) Class I milk disposed of on routes 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.

§ 1032.88 Marketing services.

(a) *Deduction of marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 1032.80, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers cooperative association.* In the case of producers for whom a cooperative association is actually performing as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

§ 1032.89 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to § 1032.84, § 1032.85, § 1032.87, or § 1032.88 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

TERMINATION OF OBLIGATIONS

§ 1032.90 Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on 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 an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator, or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the 1st day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

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

part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1032.100 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1032.101.

§ 1032.101 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1032.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1032.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1032.104 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.

§ 1032.105 Separability of provisions.

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

Signed at Washington, D.C., on June 29, 1966.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

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