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Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instruction 440.1]

PART 310—RATES ON, AND TERMS AND CONDITIONS OF THE INSURANCE OF, INSURED LOANS

Part 310, Subchapter A, Chapter III, Title 6, Code of Federal Regulations, (28 F.R. 9937, 29 F.R. 339, 30 F.R. 565, 15401) is revised, by deleting specifications of rates and terms to lenders, referring instead to sources where current information regarding such rates and terms can be obtained, providing for the payment of an insurance charge as well as interest on certain Rural Housing loans, and making other simplifying changes, to read as follows:

Sec.
310.1 Definitions.
310.2 General.
310.3 Rates payable by borrowers on insured loans.

AUTHORITY: The provisions of this Part 310 issued under sec. 510, 63 Stat. 437, sec. 514, 75 Stat. 186, secs. 307, 308, 309, 339, 75 Stat. 308, 309, 318, sec. 515(b), 76 Stat. 671, sec. 517, 79 Stat. 498; 42 U.S.C. 1480, 1484, 1485(b), 1487, 7 U.S.C. 1927, 1928, 1929, 1989; Orders of Sec. of Agr., 29 F.R. 16210, 16840, 30 F.R. 14049.

§ 310.1 Definitions.

As used in this part:

(a) "Insurance fund" means the Agricultural Credit Insurance Fund made available under section 309(a) of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1929(a)), or the Rural Housing Insurance Fund made available under section 517(e) of the Housing Act of 1949 (42 U.S.C. 1487(e)).

(b) "Farm Ownership loan" means a loan insured under sections 302 and 303 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1922, 1923).

(c) "Soil and Water loan" means a loan insured under sections 304 and 306 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1924, 1926).

(d) "Labor Housing loan" means a loan insured under section 514 or section 517(b) of the Housing Act of 1949 (42 U.S.C. 1484, 1487(b)).

(e) "Senior Citizens Rental Housing loan" means a loan insured under section 515(b) or section 517(b) of the Housing Act of 1949 (42 U.S.C. 1485(b), 1487(b)).

(f) "Rural Housing loan" means a loan insured under section 517(a) of the Housing Act of 1949 (42 U.S.C. 1487(a)). A Rural Housing loan is insured under clause (1) of the section if the borrower's family income is low or moderate, and under clause (2) if the income is above moderate.

(g) "Public body" means a borrower whose obligations bear interest exempt from Federal income taxation.

§ 310.2 General.

(a) The Farmers Home Administration insures loans made initially with money supplied by other lenders. The agency also makes loans out of the insurance fund and then sells and insures them, and resells on an insured basis loans previously purchased from insured holders. In any such type of case, collections are made by the Farmers Home Administration as agent of the insured holder and then transmitted to the holder. Depending upon the terms of the contract of insurance in each case, the agency may (1) retain an agreed portion (the "annual charge") of the collections on the loan, (2) pay the insured holder the entire collections on the loan annually, or (3) pay the entire collections plus an additional amount annually. Also, the contract of insurance may give the insured holder the optional right to require the Farmers Home Administration to repurchase the loan within a designated time interval after the lapse of a specified "fixed period" following the date of the insurance contract. Each insurance contract provides for the annual rate of yield which the insured holder is entitled to receive in addition to principal.

(b) Rates payable by borrowers are specified in § 310.3.

(c) Current information regarding yield rates to lenders and fixed periods may be obtained from any county or State office of the Farmers Home Administration or from its national office at 14th and Independence Avenue SW., Washington, D.C. 20250. A list of the county and State offices is contained in the Directory of Organization and Field Activities of the Department of Agriculture, Agriculture Handbook No. 76, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 310.3 Rates payable by borrowers on insured loans.

(a) For (1) Farm Ownership loans, (2) Labor Housing and Soil and Water loans to applicants other than public bodies, and (3) Rural Housing loans to borrowers with low or moderate family income, the interest rate payable by borrowers will be 5 percent per year on the unpaid principal balance.

(b) For Rural Housing loans to borrowers with above-moderate family income, rates payable by borrowers will be interest at 5¾ percent, and an insurance charge at one-half percent, per year on the unpaid principal balance.

(c) For Senior Citizens Rental Housing loans, the interest rate payable by borrowers will be 5¾ percent per year on the unpaid principal balance.

(d) For Labor Housing and Soil and Water loans to public bodies, the interest rate to the lender will be determined by competitive bidding or negotiation at the time the loan is made. The interest rate payable by the borrower will be the sum of the interest rate to the lender plus any annual charge specified by the Farmers Home Administration for each case or class of cases.

Dated: June 28, 1966.

LARRY BROCK,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 66-7314; Filed, July 5, 1966; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6888]

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

Group-Term Life Insurance Purchased for Employees

On July 29, 1964, notice of proposed rule making to conform the Income Tax Regulations (26 CFR Part 1) to section 204 (in part) of the Revenue Act of 1964 (78 Stat. 36) and to make certain other changes, was published in the FEDERAL REGISTER (29 F.R. 10516). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments to the regulations as so proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (d)(2)(ii) of § 1.61–2, as set forth in paragraph 1 of the notice of propsed rule making, is changed.

PAR. 2. Section 1.79–1, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraphs (a)(3) and (b)(1) and (2)(ii).

PAR. 3. Section 1.79–2, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraphs (a)(2), (b) (2) and (3), and (c)(3)(ii).

PAR. 4. Section 1.79–3, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraphs (a)(2), (c), (d)(2), (e) and (f)(2).

PAR. 5. Section 1.6052–1, as set forth in paragraph 5 of the notice of proposed rule making, is changed by revising paragraphs (a) (1) and (b).

PAR. 6. Section 1.6052–2, as set forth in paragraph 5 of the notice of proposed rule making, is changed by revising paragraph (a).

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

Approved: June 29, 1966.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 204 (in part) of the Revenue Act of 1964 (78 Stat. 36), and to make certain other changes, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (d) (2) of § 1.61–2 is amended to read as follows:

§ 1.61–2 Compensation for services, including fees, commissions, and similar items.

* * * * *

(d) *Compensation paid other than in cash.* * * *

(2) (i) *Property transferred to employee or independent contractor.* Except as otherwise provided in section 421 and the regulations thereunder (relating to employee stock options) and § 1.61–15, if property is transferred by an employer to an employee, or if property is transferred to an independent contractor, as compensation for services for an amount less than its fair market value, then regardless of whether the transfer is in the form of a sale or exchange, the difference between the amount paid for the property and the amount of its fair market value at the time of the transfer is compensation and shall be included in the gross income of the employee or independent contractor. In computing the gain or loss from the subsequent sale of such property, its basis shall be the amount paid for the property increased by the amount of such difference included in gross income.

(ii) (*a*) *Cost of life insurance on the life of the employee.* Generally, life insurance premiums paid by an employer on the life of his employee where the proceeds of such insurance are payable to the beneficiary of such employee are part of the gross income of the employee. However, the amount includible in the employee's gross income is determined with regard to the provisions of section 403 and the regulations thereunder in the case of an individual contract issued after December 31, 1962, or a group contract, which provides incidental life insurance protection and which satisfies the requirements of section 401(g) and § 1.401–9, relating to the nontransferability of annuity contracts. For the special rules relating to the includibility in an employee's gross income of an amount equal to the cost of group-term life insurance on the employee's life as defined in paragraph (b) (1) of § 1.79–1 which is carried directly or indirectly by his employer, see section 79 and the regulations thereunder. For special rules relating to the exclusion of contributions by an employer to accident and health plans for the employees, see section 106 and the regulations thereunder.

(*b*) *Cost of group-term life insurance on life of spouse or children of an employee.* Generally, the cost (determined under paragraph (d) (2) of § 1.79–3) of group-term life insurance on the life of the spouse or children of an employee paid by the employee's employer is part of the gross income of the employee. However, such cost is not required to be included in the employee's gross income if it is merely incidental. Such cost shall be considered incidental if the amount of such insurance payable upon the death of a spouse or of a child does not exceed $2,000.

* * * * *

PAR. 2. There are inserted immediately after § 1.78–1 the following new sections:

§ 1.79 Statutory provisions; group-term life insurance purchased for employees.

Sec. 79. *Group-term life insurance purchased for employees*—(a) *General rule.* There shall be included in the gross income of an employee for the taxable year an amount equal to the cost of group-term life insurance on his life provided for part or all of such year under a policy (or policies) carried directly or indirectly by his employer (or employers); but only to the extent that such cost exceeds the sum of—

(1) The cost of $50,000 of such insurance, and

(2) The amount (if any) paid by the employee toward the purchase of such insurance.

(b) *Exceptions.* Subsection (a) shall not apply to—

(1) The cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and either has reached the retirement age with respect to such employer or is disabled (within the meaning of paragraph (3) of section 213(g), determined without regard to paragraph (4) thereof),

(2) The cost of any portion of the group-term life insurance on the life of an employee provided during part or all of the taxable year of the employee under which—

(A) The employer is directly or indirectly the beneficiary, or

(B) A person described in section 170(c) is the sole beneficiary,

for the entire period during such taxable year for which the employee receives such insurance, and

(3) The cost of any group-term life insurance which is provided under a contract to which section 72(m) (3) applies.

(c) *Determination of cost of insurance.* For purposes of this section and section 6052, the cost of group-term insurance on the life of an employee provided during any period shall be determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by regulations by the Secretary or his delegate. In the case of an employee who has attained age 64, the cost prescribed shall not exceed the cost with respect to such individual if he were age 63.

[Sec. 79 as added by sec. 204(a) (1), Rev. Act 1964 (78 Stat. 36)]

§ 1.79–1 General rules relating to group-term life insurance purchased for employees.

(a) *Applicable rules.* (1) With respect to group-term life insurance provided for any period ending on or before December 31, 1963, no amount with respect to the cost of group-term life insurance on the life of an employee provided under a policy or policies carried directly or indirectly by his employer is required to be included in the employee's gross income.

(2) With respect to group-term life insurance provided for any period after December 31, 1963, section 79 prescribes the rules regarding the inclusion in an employee's gross income of an amount equal to the cost of group-term life insurance on his life which is provided under a policy carried directly or indirectly by his employer. Except as otherwise provided in section 79(b) and § 1.79–2, section 79 requires that an amount equal to the cost of group-term life insurance on an employee's life provided after December 31, 1963, for part or all of any taxable year of the employee ending after such date, under a policy (or policies) carried directly or indirectly by his employer (or employers) be included in his gross income to the extent that such cost exceeds the sum of (i) the cost of $50,000 of such insurance, and (ii) the amount (if any) paid by the employee toward the purchase of such insurance. Section 1.79–3 contains the rules applicable to the determination of the amount equal to the cost of group-term life insurance on the employee's life to which section 79 applies.

(3) If the proceeds of a policy of group-term life insurance on the life of an individual are payable to such individual or his beneficiary, and if the provisions of subparagraph (1) or (2) of this paragraph do not apply to such policy, then the determination of whether an amount is includible in the individual's gross income is made with regard to the provisions of section 61(a) and the regulations thereunder. For example, if group-term life insurance is provided on the life of the employee's spouse, or is not provided as compensation for personal services rendered as an employee, or is not provided under a policy carried directly or indirectly by the employee's employer, then subparagraphs (1) and (2) of this paragraph do not apply and the tax treatment shall be determined under section 61(a) and the regulations thereunder.

(b) *Meaning of terms.* The following terms are defined for purposes of section 79, this section, and §§ 1.79–2 and 1.79–3:

(1) *Group-term life insurance*—(i) *In general.* Group-term life insurance is term life insurance protection provided under a master policy, or group of individual policies, which policy, or policies, constitute life insurance contracts for purposes of section 101(a) and form a part of a plan of group insurance as defined in subdivision (iii) of this subparagraph. Section 79 only applies to insurance which provides general death benefits. Thus, such section does not apply to travel insurance or accident and health insurance (including amounts payable under a double indemnity clause or rider). Moreover, section 79 does not apply to any amount of life insur-

ance protection provided for an employee by an employer which is in excess of the maximum amount of such protection which could, under the law of the applicable jurisdiction, be provided by such employer for such employee under a master policy providing only group-term life insurance protection.

(ii) *Paid up or similar value.* In the case of a policy which includes permanent insurance, a paid up value, or an equivalent benefit, section 79 shall apply to that portion of the insurance provided thereunder during the taxable year which constitutes group-term life insurance (within the meaning of this subparagraph) only if the policy specifies the portion of the premium which is properly allocable to the group-term life insurance and no part of the premium which is not so allocable is paid by the employer. For purposes of this subparagraph, a provision permitting an employee to convert (or continue) the term insurance protection after it ceases to be provided by the employer shall not be treated as permanent insurance, a paid up value, or an equivalent benefit. If a policy containing permanent insurance, a paid up value, or an equivalent benefit is used to provide group-term life insurance protection for any employee covered under the plan, each employee covered under the plan must be eligible for such insurance protection under a policy containing such a benefit.

(iii) *Plan of group insurance defined.*

(*a*) To constitute a plan of group insurance, the plan must be arranged for by an employer for his employees. The provisions of the plan of the employer may be incorporated in a separate written document or may be incorporated in the master policy providing life insurance protection for the employees. For purposes of determining whether the requirements of this subdivision are satisfied, the plan of each employer is considered separately even though the policy which provides insurance protection for the employees covered under the plan also provides insurance protection for the employees of more than one employer. Furthermore, if the plan of one employer does not satisfy the requirements of this subdivision, such failure to qualify does not affect the qualification of the plan of any other employer who provides his employees with group-term life insurance protection under the same policy.

(*b*) Except as provided in (*c*) of this subdivision, to constitute a plan of group insurance, the plan must make term life insurance available to a group of lives. Such group must include all of the employees of the employer, or a class or classes of such employees the members of which are determined on the basis of factors which preclude individual selection. Examples of such factors are membership in a union whose members are employed by the employer, martial status, and age. Thus, a plan will not qualify as a plan of group insurance where eligibility at the time the employee first becomes eligible for insurance protection under the plan is conditioned on evidence of insurability. A plan under which insurance is available only to employees who own stock in the employer corporation does not qualify as a plan or group insurance for purposes of section 79 since eligibility is not based primarily on the employment relationship. Furthermore, the coverage under the plan of the employer must in operation conform to the provisions relating to the eligibility of employees which are incorporated therein.

(*c*) To constitute a plan of group insurance, if the life insurance protection is provided by a group of individual policies, the plan of which such policies form a part must make term insurance protection available to a number of employees at least equal to the minimum number of employees required to obtain a master policy under the law of the jurisdiction that would apply to such master policy if it were obtained. However, if the total number of the employees of the employer is less than such minimum number, all of the employees must be eligible for term insurance protection under the plan.

(*d*) In order to constitute a plan of group insurance, the amounts of insurance protection provided under the plan must be based upon some formula which precludes individual selection of such amounts. Thus, for example, the amounts of insurance on the lives of those individuals eligible for insurance under the plan must be based on a factor such as salary, years of service, or position, or a combination of such factors. On the other hand, evidence of insurability cannot be a factor affecting the amount of insurance on an employee's life. The requirements of this subdivision do not prevent the use of a limited number of alternative schedules based upon the amount the employee elects to contribute, provided each such schedule satisfies the requirements of this subdivision independently.

(iv) *Coverage of nonemployees.* The determination as to whether the requirements of this subparagraph are satisfied is not affected by provisions of the plan which relate to individuals who are not employees as defined in subparagraph (2) of this paragraph.

(2) *Employee.* (i) The term "employee" has reference to the legal and bona fide relationship of employer and employee. For rules applicable to the determination of whether the employer-employee relationship exists, see section 3401(c) and the regulations thereunder. The term "employee" does not include any individual whose group-term life insurance protection is furnished by reason of his services as a self-employed individual even though such an individual may be treated as an employee under the terms of the policy. Thus, for example, if an individual had performed services for the employer as a "common-law" employee and such individual is currently performing services for the same employer as an independent contractor, the determination of whether the individual is an employee as defined in this subparagraph depends upon whether, under the terms of the plan for providing group-term life insurance protection on such individual's life, such individual's coverage is based upon his former services as an "employee" or upon his current services as a self-employed individual.

(ii) Full-time life insurance salesmen described in section 7701(a)(20) are included within the class of persons considered to be employees.

(3) *Carried directly or indirectly.* A policy of group-term life insurance on an employee's life is carried directly or indirectly by his employer if such employer pays directly or through another person any part of the cost of such insurance, or if such employer arranges for the payment of the cost of such insurance by the employees and charges less than the cost of such insurance, as determined under the provisions of § 1.79–3, to some employees (such as those in older age brackets) and more than the cost of such insurance to other employees (such as those in younger age brackets). The rule of the preceding sentence applies regardless of whether the employees who contribute more than the cost of such insurance are employees of the same employer or a different employer if the payment of the cost of such insurance is arranged for by some or all of such employers.

§ 1.79–2 Exceptions to the rule of inclusion.

(a) *In general.* (1) Section 79(b) provides exceptions for the cost of group-term life insurance provided under certain policies otherwise described in section 79(a). The policy or policies of group-term life insurance which are described in section 79(a) but which qualify for one of the exceptions set forth in section 79(b) are described in paragraphs (b) through (d) of this section. Paragraph (b) of this section discusses the exception provided in section 79(b)(1); paragraph (c) of this section discusses the exception provided in section 79(b)(2); and paragraph (d) of this section discusses the exception provided in section 79(b)(3).

(2) (i) If a policy of group-term life insurance qualifies for an exception provided by section 79(b), then the amount equal to the cost of such insurance is excluded from the application of the provisions of section 79(a).

(ii) If a policy, or portion of a policy of group-term life insurance qualifies for an exception provided by section 79(b), the amount (if any) paid by the employee toward the purchase of such insurance is not to be taken into account as an amount referred to in section 79(a)(2). In the case of a policy or policies of group-term life insurance which qualify for an exception provided by section 79(b) (1) or (3), the amount paid by the employee which is not to be taken into account as an amount referred to in section 79(a)(2) is the amount paid by the employee for the particular policy or policies of group-term life insurance which qualify for an exception provided under such section. If the exception

provided in section 79(b)(2) is applicable only to a portion of the group-term life insurance on the employee's life, the amount considered to be paid by the employee toward the purchase of such portion is the amount equal to the excess of the cost of such portion of the insurance over the amount otherwise includible in the employee's gross income with respect to the group-term life insurance on his life carried directly or indirectly by such employer.

(iii) The rules of this subparagraph may be illustrated by the following example:

Example. A is an employee of X Corporation and is also an employee of Y Corporation, a subsidiary of X Corporation. A is provided, under a separate plan arranged by each of his employers, group-term life insurance on his life. During his taxable year, under the group-term life insurance plan of X Corporation, A is provided $60,000 of group-term life insurance on his life, and A pays $360.00 toward the purchase of such insurance. Under the group-term life insurance plan of Y Corporation, A is provided $65,000 of group-term life insurance on his life, but does not pay any part of the cost of such insurance. At the beginning of his taxable year, A terminates his employment with the X Corporation after he has reached the retirement age with respect to such employer, and the policy carried by the X Corporation qualifies for the exception provided by section 79(b)(1). For that taxable year, the cost of the group-term life insurance on A's life which is provided under the plan of X Corporation is not taken into account in determining the amount includible in A's gross income under section 79(a), and A may not take into account as an amount described in section 79(a)(2) the $360.00 he pays toward the purchase of such insurance.

(b) *Retired and disabled employees*—(1) *In general.* Section 79(b)(1) provides an exception for the cost of group-term life insurance on the life of an individual which is provided under a policy or policies otherwise described in section 79(a) if the individual has terminated his employment (as defined in subparagraph (2) of this paragraph) with such employer and either has reached the retirement age with respect to such employer (as defined in subparagraph (3) of this paragraph), or has become disabled (as defined in subparagraph (4)(i) of this paragraph). If an individual who has terminated his employment attains retirement age or has become disabled during his taxable year, or if an employee who has attained retirement age or has become disabled terminates his employment during the taxable year, the exception provided by section 79(b)(1) applies only to the portion of the cost of group-term life insurance which is provided subsequent to the happening of the last event which qualifies the policy of insurance on the employee's life for the exception provided in such section.

(2) *Termination of employment.* For purposes of section 79(b)(1), an individual has terminated his employment with an employer providing such individual group-term life insurance when such individual no longer renders services to that employer as an employee of such employer.

(3) *Retirement age.* For purposes of section 79(b)(1) and this section, the meaning of the term "retirement age" is determined in accordance with the following rules—

(i) (*a*) If the employee is covered under a written pension or annuity plan of the employer providing such individual group-term life insurance on his life (whether or not such plan is qualified under section 401(a) or 403(a)), then his retirement age shall be considered to be the earlier of—

(*1*) The earliest age specified in such plan at which he has the right to retire without the consent of his employer and receive retirement benefits based on his service to date of retirement computed at the full rate set forth in the normal retirement formula of the plan, i.e., without actuarial or similar reduction because of retirement before some later specified age, or

(*2*) The age at which it has been the practice of the employer to terminate, due to age, the services of the class of employees to which he last belonged.

(*b*) For purposes of (*a*) of this subdivision, if an employee is covered under more than one pension or annuity plan of the employer, his retirement age shall be determined with regard to that plan which covers that class of employees of the employer to which the employee last belonged. If the class of employees to which the employee last belonged is covered under more than one pension or annuity plan, then the employee's retirement age shall be determined with regard to that plan which covers the greatest number of the employer's employees.

(ii) In the absence of a written employee's pension or annuity plan described in subdivision (i) of this subparagraph, retirement age is the age, if any, at which it has been the practice of the employer to terminate, due to age, the services of the class of employees to which the particular employee last belonged, provided such age is reasonable in view of all the pertinent facts and circumstances.

(iii) If neither subdivision (i) or (ii) of this subparagraph applies, the retirement age is considered to be age 65.

(4) *Disabled.* (i) For purposes of section 79(b)(1) and subparagraph (1) of this paragraph, an individual is considered disabled if he is disabled within the meaning of section 213(g)(3), relating to the meaning of disabled, but the determination of the individual's status shall be made without regard to the provisions of section 213(g)(4), relating to the determination of status.

(ii) (*a*) In any taxable year in which an individual seeks to apply the exception set forth in section 79(b)(1) by reason of his being disabled within the meaning of subdivision (i) of this subparagraph, and in which the aggregate amount of insurance on the individual's life subject to the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1, but determined without regard to the amount of any insurance subject to any exception set forth in section 79(b), is greater than $50,000 of such insurance, the substantiation required by (*b*) or (*c*) of this subdivision must be submitted with the individual's tax return.

(*b*) For the first taxable year for which the individual seeks to apply the exception set forth in section 79(b)(1) by reason of his being disabled within the meaning of subdivision (i) of this subparagraph, there must be submitted with his income tax return a doctor's statement as to his impairment. There must also be submitted with the return a statement by the individual with respect to the effect of the impairment upon his substantial gainful activity, and the date such impairment occurred. For subsequent taxable years, the taxpayer may, in lieu of such statements, submit a statement declaring the continued existence (without substantial diminution) of the impairment and its continued effect upon his substantial gainful activity.

(*c*) In lieu of the substantiation required to be submitted by (*b*) of this subdivision for the taxable year, the individual may submit a signed statement issued to him by the insurer to the effect that the individual is disabled within the meaning of subdivision (i) of this paragraph. Such statement must set forth the basis for the insurer's determination that the individual was so disabled, and, for the first taxable year in which the individual is so disabled, the date such disability occurred.

(c) *Employer or charity a beneficiary*—(1) *General rule.* Section 79(b)(2) provides an exception with respect to the amounts referred to in section 79(a) for the cost of any portion of the group-term life insurance on the life of an employee provided during part or all of the taxable year of the employee under which the employer is directly or indirectly the beneficiary, or under which a person described in section 170(c) (relating to definition of charitable contributions) is the sole beneficiary, for the entire period during such taxable year for which the employee receives such insurance.

(2) *Employer is a beneficiary.* For purposes of section 79(b)(2) and subparagraph (1) of this paragraph, the determination of whether the employer is directly or indirectly the beneficiary under a policy or policies of group-term life insurance depends upon the facts and circumstances of the particular case. Such determination is not made solely with regard to whether the employer possesses all the incidents of ownership in the policy. Thus, for example, if the employer is the nominal beneficiary under a policy of group-term life insurance on the life of his employee but there is an arrangement whereby the employer is required to pay over all (or a portion) of the proceeds of such policy to the employee's estate or his beneficiary, the employer is not considered a beneficiary under such policy (or such portion of the policy).

(3) *Charity a beneficiary.* (i) For purposes of section 79(b)(2) and subparagraph (1) of this paragraph, a person described in section 170(c) is a beneficiary under a policy providing group-term life insurance if such person is designated the beneficiary under the

policy by any assignment or designation of beneficiary under the policy which, under the law of the jurisdiction which is applicable to the policy, has the effect of making such person the beneficiary under such policy (whether or not such designation is revocable during the taxable year). Such a designation may be made by the employee with respect to any portion of the group-term life insurance on his life. However, no deduction is allowed under section 170, relating to charitable, etc., contributions and gifts, with respect to any such assignment or designation.

(ii) A person described in section 170(c) must be designated the sole beneficiary under the policy or portion of the policy. Such requirement is satisfied if the person described in section 170(c) is the beneficiary under such policy or portion of the policy, and there is no contingent or similar beneficiary under such policy or such portion other than a person described in section 170(c). A general "preference beneficiary clause" in a policy governing payment where there is no designated beneficiary in existence at the death of the employee will not of itself be considered to create a contingent or similar beneficiary. A person described in section 170(c) may be designated the beneficiary under a portion of the policy if such person is designated the sole beneficiary under a beneficiary designation which is expressed, for example, as a fraction of the amount of insurance on the insured's life.

(iii) If a person described in section 170(c) is designated, before May 1, 1964, the beneficiary under the policy (or portion thereof) and such person remains the beneficiary for the period beginning May 1, 1964, and ending with the close of the first taxable year of the employee ending after April 30, 1964, such person shall be treated as the beneficiary under the policy (or the portion thereof) for the period beginning January 1, 1964, and ending April 30, 1964.

(d) *Insurance contracts purchased under qualified employee plans.* (1) Section 79(b)(3) provides an exception with respect to the cost of any group-term life insurance which is provided under a life insurance contract purchased as a part of a plan described in section 403(a), or purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) if the proceeds of such contract are payable directly or indirectly to a participant in such trust or to a beneficiary of such participant. The provisions of section 72(m)(3) and § 1.72–16 apply to the cost of such group-term life insurance, and, therefore, no part of such cost is excluded from the gross income of the employee by reason of the provisions of section 79.

(2) Whether the life insurance protection on an employee's life is provided under a qualified employee plan referred to in subparagraph (1) of this paragraph depends upon the provisions of such plan. In determining whether a pension, profit-sharing, stock bonus, or annuity plan satisfies the requirements for qualification set forth in sections 401(a) or 403(a), only group-term life insurance which is provided under such plan is taken into account.

§ 1.79–3 Determination of amount equal to cost of group-term life insurance.

(a) *In general.* This section prescribes the rules for determining the amount equal to the cost of group-term life insurance on an employee's life which is to be included in his gross income pursuant to the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1. Such amount is determined by—

(1) Computing the cost of the portion of the group-term life insurance on the employee's life to be taken into account (determined in accordance with the rules set forth in paragraph (b) of this section) for each "period of coverage" (as defined in paragraph (c) of this section) and aggregating the costs so determined, then

(2) Reducing the amount determined under subparagraph (1) of this paragraph by the amount determined in accordance with the rules set forth in paragraph (e) of this section, relating to the amount paid by the employee toward the purchase of group-term life insurance.

(b) *Determination of the portion of the group-term life insurance on the employee's life to be taken into account.* (1) For each "period of coverage" (as defined in paragraph (c) of this section), the portion of the group-term life insurance to be taken into account in computing the amount includible in an employee's gross income for purposes of paragraph (a)(1) of this section is the sum of the proceeds payable upon the death of the employee under each policy, or portion of a policy, of group-term life insurance on such employee's life to which the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1 applies, less $50,000 of such insurance. Thus, the amount of any proceeds payable under a policy, or portion of a policy, which qualifies for one of the exceptions to the rule of inclusion provided by section 79(b) is not taken into account. For the regulations relating to such exceptions to the rule of inclusion, see § 1.79–2.

(2) For purposes of making the computation required by subparagraph (1) of this paragraph in any case in which the amount payable under the policy, or portion thereof, varies during the period of coverage, the amount payable under such policy during such period is considered to be the average of the amount payable under such policy at the beginning and the end of such period.

(3)(i) For purposes of making the computation required by subparagraph (1) of this paragraph in any case in which the amount payable under the policy is not payable as a specific amount upon the death of the employee in full discharge of the liability of the insurer, and such form of payment is not one of alternative methods of payment, the amount payable under such policy is the present value of the agreement by the insurer under the policy to make the payments to the beneficiary or beneficiaries entitled to such amounts upon the employee's death. For each period of coverage, such present value is to be determined as if the first and last day of such period is the date of death of the employee.

(ii) The present value of the agreement by the insurer under the policy to make payments shall be determined by the use of the mortality tables and interest rate employed by the insurer with respect to such a policy in calculating the amount held by the insurer (as defined in section 101(d)(2)), unless the Commissioner otherwise determines that a particular mortality table and interest rate, representative of the mortality table and interest rate used by commercial insurance companies with respect to such policies, shall be used to determine the present value of the policy for purposes of this subdivision.

(iii) For purposes of making the computation required by subdivision (i) of this subparagraph in any case in which it is necessary to determine the age of an employee's beneficiary and such beneficiary remains the same (under the policy, or the portion of the policy, with respect to which the determination of the present value of the agreement of the insurer to pay benefits is being made) for the entire period during the employee's taxable year for which such policy is in effect, the age of such beneficiary is such beneficiary's age at his nearest birthday on June 30th of the calendar year.

(iv) If the policy of group-term life insurance on the employee's life is such that the present value of the agreement by the insurer under the policy to pay benefits cannot be determined by the rules prescribed in this subparagraph, the taxpayer may submit with his return a computation of such present value, consistent with the actuarial and other assumptions set forth in this subparagraph, showing the appropriate factors applied in his case. Such computation shall be subject to the approval of the Commissioner upon examination of such return.

(c) *Period of coverage.* For purposes of this section, the phrase "period of coverage" means any one calendar month period, or part thereof, during the employee's taxable year during which the employee is provided group-term life insurance on his life to which the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1 applies. The phrase "part thereof" as used in the preceding sentence means any continuous period which is less than the one calendar month period referred to in the preceding sentence for which premiums are charged by the insurer.

(d) *The cost of the portion of the group-term life insurance on an employee's life.* (1) This paragraph sets forth the rules for determining the cost, for each period of coverage, of the portion of the group-term life insurance on the employee's life to be taken into account in computing the amount includible in the the employee's gross income for purposes of paragraph (a)(1) of this section. The portion of the group-term life insurance on the employee's life to

be taken into account is determined in accordance with the provisions of paragraph (b) of this section. Table I, which is set forth in subparagraph (2) of this paragraph, determines the cost for each $1,000 of such portion of the group-term life insurance on the employee's life for each one-month period. The cost of the portion of the group-term life insurance on the employee's life for each period of coverage of one month is obtained by multiplying the number of thousand dollars of such insurance computed to the nearest tenth which is provided during such period by the appropriate amount set forth in Table I. In any case in which group-term life insurance is provided for a period of coverage of less than one month, the amount set forth in Table I is prorated over such period of coverage.

(2) The following table sets forth the cost of $1,000 of group-term life insurance for 1 month computed on the basis of 5-year age brackets. For purposes of Table I, the age of the employee is his attained age on the last day of his taxable year. However, if an employee has attained an age greater than age 64, he shall be treated as if he were in the 5-year age bracket 60 to 64.

TABLE I.—UNIFORM PREMIUMS FOR $1,000 OF GROUP-TERM LIFE INSURANCE PROTECTION

5-year age bracket	*Cost per $1,000 of protection for 1-month period*
Under 30	$0.08
30 to 34	.10
35 to 39	.14
40 to 44	.23
45 to 49	.40
50 to 54	.68
55 to 59	1.10
60 to 64	1.63

(3) The net premium cost of group-term life insurance as provided in Table I of subparagraph (2) of this paragraph applies only to the cost of group-term life insurance subject to the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1. Therefore, such net premium cost is not applicable to the determination of the cost of group-term life insurance provided under a policy which is not subject to such rule of inclusion.

(e) *Amount paid by the employee toward the purchase of group-term life insurance.* (1) Except as otherwise provided in subparagraph (2) of this paragraph, if an employee pays any amount toward the purchase of group-term life insurance provided for a taxable year which is subject to the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1, the sum of all such amounts is the amount referred to in section 79(a)(2) and paragraph (a)(2) of this section. The rule of the preceding sentence applies even though the payments made by the employee are made with respect to a period of coverage during which no portion of the group-term life insurance on his life is taken into account under paragraph (b)(1) of this section.

(2) In determining the amount paid by the employee for purposes of section 79(a)(2) and paragraph (a)(2) of this section, there is not taken into account any amounts paid by the employee for group-term life insurance provided (or to be provided) for a different taxable year (other than amounts applicable to regular pay periods extending into the next taxable year). Thus, for example, if part of an employee's payment during a taxable year represents a prepayment for insurance to be provided after his retirement, such part does not reduce the amount includible in his gross income for the current taxable year. Furthermore, in determining such amount, there is not taken into account any amount paid by an employee toward the purchase of group-term life insurance which qualifies for one of the exceptions described in section 79(b). The amount paid by an employee toward the purchase of group-term life insurance which qualifies for one of the exceptions described in section 79(b) is determined under the rules of paragraph (a)(2) of § 1.79–2.

(3) If payments are made by the employer and his employees to provide group-term life insurance which is subject to the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1 as well as to provide other benefits for the employees, and if the amount paid by the employee toward the purchase of such insurance cannot be determined by the provisions of the policy or plan under which such benefits are provided, then the determination of the portion of the cost of group-term life insurance (computed in accordance with the provisions of this section) which is attributable to the contributions of the employee shall be made in accordance with the provisions of this subparagraph. The amount paid by the employee toward the purchase of all the group-term life insurance on his life for his taxable year (or for the portion of his taxable year if such portion is the basis of the computation) under such group policy shall be an amount determined first by ascertaining the total amount paid by all employees who are covered for multiple benefits which is allocable toward the purchase of group-term life insurance on their lives for the year, and then by ascertaining the pro rata portion of such total amount attributable to the individual employee. The total amount paid by all employees who are covered for multiple benefits which is allocable toward the purchase of group-term life insurance on their lives with respect to such year shall be an amount which bears the same ratio to the total amount paid by all employees for multiple benefits with respect to such year as the aggregate premiums paid to the insurer for group-term life insurance on such employees' lives with respect to such year bears to the aggregate premiums paid to the insurer for such multiple benefits with respect to such year. The pro rata portion of such total amount attributable to the individual employee for the cost of group-term life insurance on his life shall be an amount which bears the same ratio to the total amount paid by all employees which is allocable toward the purchase of group-term insurance on their lives with respect to such year as the amount of group-term life insurance on the life of the employee at a specified time during the year, as determined by the employer, bears to the total amount of group-term life insurance on the lives of all employees insured for such multiple benefits at such time.

(f) *Effect of provision of other benefits*—(1) *In general.* This paragraph discusses the effect of the provision of certain benefits other than group-term life insurance on the life of the employee if the provision of such benefits is contingent upon the underwriting of group-term life insurance on the employee's life to which the rule of inclusion set forth in paragraph (a)(2) of § 1.79–1 applies.

(2) *Dependent coverage.* An amount equal to the cost of group-term life insurance on the life of the spouse or other family member of the employee which is provided under a policy of group-term life insurance carried directly or indirectly by his employer is not subject to the provisions of section 79 since it is not on the life of the employee. See paragraph (d)(2)(ii)(b) of § 1.61–2 for rules regarding the tax treatment of such insurance.

(3) *Disability provisions.* Payments made for disability benefits provided under a group-term life insurance contract are considered to constitute payments made for accident and health insurance. Thus, employer contributions to provide such benefits are excluded from gross income by reason of the provisions of section 106.

(4) *Cost of other benefits.* If a benefit described in this paragraph is provided under a policy under which both the employer and his employees contribute, then, except as otherwise provided in this subparagraph, the employer and the employees will be treated as contributing toward the payment of such benefit at the same rate as they contribute toward the cost of group-term life insurance on the employees' lives. A separate allocation of employer and employee contributions for such benefits is permissible only if—

(i) Such separate allocation is set forth in the group policy and is applicable to all the employees covered under such policy;

(ii) Such separate allocation is followed in transactions between the insurer and the group-policyholder; and

(iii) The allocation set forth in the policy satisfies the requirements of the law of the jurisdiction which is applicable to the contract regarding any minimum or maximum contribution rate by the employer or the employees.

PAR. 3. Paragraph (a)(3)(i) of §1.105–4 is amended to read as follows:

§ 1.105–4 Wage continuation plans.

(a) *In general.* * * *

(3)(i)(*a*) Section 105(d) applies only to amounts attributable to periods during which the employee would be at work were it not for a personal injury or sickness. Thus, an employee is not absent from work if he is not expected to work because, for example, he has reached retirement age. If a plan provides that an employee, who is absent from work on account of a personal injury or sick-

ness, will receive a disability pension or annuity as long as he is disabled, section 105(d) is applicable to any payments which such an employee receives under this plan before he reaches retirement age as defined in (*b*) of this subdivision, but section 105(d) does not apply to the payments which such an employee receives after he reaches such retirement age. See § 1.72–15 for additional rules relating to the tax treatment of disability pensions.

(*b*) The term retirement age as used in (*a*) of this subdivision has the same meaning as that term has in paragraph (b)(3) of § 1.79–2, except that, for purposes of applying the provisions of paragraph (b)(3)(i) of § 1.79–2 in the case of payments received by the employee to which this section applies, the retirement age of the employee is to be determined only with regard to the particular pension or annuity plan under which such payments are made.

* * * * *

PAR. 4. Paragraph (d)(1) of § 1.6041–1 is revised to read as follows:

§ 1.6041–1 Return of information as to payments of $600 or more.

* * * * *

(d) *Payments specifically included.* (1) Sums paid in respect of life insurance, endowment, or annuity contracts are required to be reported in returns of information under this section—

(i) Unless the payment is made in respect of a life insurance or endowment contract by reason of the death of the insured and is not required to be reported by paragraph (b) of § 1.6041–2,

(ii) Unless the payment is made by reason of the surrender prior to maturity or lapse of a policy, other than a policy which was purchased (*a*) by a trust described in section 401(a) which is exempt from tax under section 501(a), (*b*) as part of a plan described in section 403(a), or (*c*) by an employer described in section 403(b)(1)(A),

(iii) Unless the payment is interest as defined in § 1.6049–2 and is made after December 31, 1962,

(iv) Unless the payment is a payment with respect to which a return is required by § 1.6047–1, relating to employee retirement plans covering owner-employees,

(v) Unless the payment is payment with respect to which a return is required by § 1.6052–1, relating to payment of wages in the form of group-term life insurance.

* * * * *

PAR. 5. There are inserted immediately after § 1.6049–3 the following new sections:

§ 1.6052 Statutory provisions; returns regarding payment of wages in the form of group-term life insurance.

SEC. 6052. *Returns regarding payment of wages in the form of group-term life insurance*—(a) *Requirement of reporting.* Every employer who during any calendar year provides group-term life insurance on the life of an employee during part or all of such calendar year under a policy (or policies) carried directly or indirectly by such employer shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the cost of such insurance and the name and address of the employee on whose life such insurance is provided, but only to the extent that the cost of such insurance is includible in the employee's gross income under section 79(a). For purposes of this section, the extent to which the cost of group-term life insurance is includible in the employee's gross income under section 79(a) shall be determined as if the employer were the only employer paying such employee remuneration in the form of such insurance.

(b) *Statements to be furnished to employees with respect to whom information is furnished.* Every employer making a return under subsection (a) shall furnish to each employee whose name is set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

[Sec. 6052 as added by sec. 204(c)(1), Rev. Act 1964 (78 Stat. 37)]

§ 1.6052–1 Information returns regarding payment of wages in the form of group-term life insurance.

(a) *Requirement of reporting*—(1) *In general.* Every employer, who during any calendar year after December 31, 1963, provides any one of his employees remuneration for services in the form of group-term life insurance on the life of such employee any part of the cost of which is to be included in such employee's gross income as set forth in paragraph (a)(2) of § 1.79–1, shall make a separate return with respect to each such employee for such year which includes the following information:

(i) Name, address, and identifying number of the employer.

(ii) Name, address, and social security number of the employee.

(iii) Total amount includible in the employee's gross income by reason of the provisions of section 79(a), computed as if each employee reported his income on the basis of a calendar year (determined as if the employer making such return is the only employer paying the employee remuneration in the form of group-term life insurance on his life which is includible in his gross income under section 79(a)).

(2) *Definitions.* Terms used in subparagraph (1) of this paragraph which are defined in paragraph (b) of § 1.79–1 have the meaning ascribed to them in such paragraph (b).

(b) *Time and place for filing.* The return required under this section for any calendar year shall be filed after the close of that year and on or before February 28 of the following year with any of the Internal Revenue Service Centers. For extensions of time for filing returns under this section, see § 1.6081–1.

(c) *Last day for filing return.* For provisions relating to the time for performance of an act when the last day prescribed for performance falls on Saturday, Sunday, or a legal holiday, see § 301.7503–1 of this chapter (Regulations on Procedure and Administration).

(d) *Penalty.* For provisions relating to the penalty provided for failure to file the information returns required by this section, see section 6652 and the regulations thereunder.

§ 1.6052–2 Statements to be furnished employees with respect to wages paid in the form of group-term life insurance.

(a) *Requirement.* Every employer filing a return under section 6052(a) and § 1.6052–1 with respect to group-term life insurance on the life of an employee shall furnish to the employee whose name is set forth in such return a written statement showing the information required by paragraph (b) of this section.

(b) *Form of statement.* The written statement required to be furnished to an employee under paragraph (a) of this section shall show—

(1) The total amount includible in the employee's gross income by reason of the provisions of section 79(a), but determined as if the employer furnishing such statement is the only employer paying the employee remuneration in the form of group-term life insurance on his life which is includible in his gross income under section 79(a).

(2) The name, address, and identifying number of the employer filing the statement.

The requirement of this section for the furnishing of a statement to an employee may be satisfied by the furnishing to such employee of a copy of the return filed pursuant to § 1.6052–1 in respect of such employee. A statement shall be considered to be furnished to a person within the meaning of this section if it is mailed to such person at his last known address.

(c) *Time for furnishing statements*—(1) *In general.* Each statement required by this section to be furnished to any employee for a calendar year shall be furnished to such person after the close of that year and on or before January 31 of the following year.

(2) *Extensions of time.* For good cause shown upon written application of the employer required to furnish statements under this section, the district director may grant an extension of time not exceeding 30 days in which to furnish such statements. The application shall be addressed to the district director with whom the income tax returns of the applicant are filed and shall contain a full recital of the reasons for requesting the extension to aid the district director in determining the period of the extension, if any, which will be granted. Such a request in the form of a letter to the district director signed by the applicant will suffice as an application. The application shall be filed on or before the date prescribed in subparagraph (1) of this paragraph for furnishing the statements required by this section.

(3) *Last day for furnishing statement.* For provisions relating to the time for performance of an act when the last day prescribed for performance falls on Saturday, Sunday, or a legal holiday, see § 301.7503–1 of this chapter (Regulations on Procedure and Administration).

(d) *Definitions.* Terms used in this section which are defined in paragraph (b) of § 1.79–1 have the meaning ascribed to them in such paragraph (b).

(e) *Penalty.* For provisions relating to the penalty provided for failure to furnish a statement under this section, see section 6678 and the regulations thereunder.

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

[F.R. Doc. 66–7300; Filed, July 5, 1966; 8:45 a.m.]

Title 7—AGRICULTURE

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

[Lemon Reg. 220, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 910.520 (Lemon Regulation 220, 31 F.R. 8860) are hereby amended to read as follows:

§ 910.520 Lemon Regulation 220.

* * * * *

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

(ii) District 2: 372,000 cartons.

* * * * *

(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. 66–7333; Filed, July 5, 1966; 8:47 a.m.]

[Lemon Reg. 220, Amdt. 2]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

§ 910.520 Lemon Regulation 220.

* * * * *

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

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 910.520 (Lemon Regulation 220, 31 F.R. 8860) are hereby amended to read as follows:

(ii) District 2: 404,550 cartons.

* * * * *

(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. 66–7334; Filed, July 5, 1966; 8:47 a.m.]

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

HANDLING OF MILK IN CERTAIN MARKETING AREAS; MASSACHUSETTS-RHODE ISLAND ET AL.

Order Amending Orders

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 de-

terminations 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) *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 the 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.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this order effective as provided herein, 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). The conditions in these markets are such that remedial action should be taken as soon as possible in the interest of maintaining milk supplies. Producers and handlers affected by this order should have assurance, at the earliest possible date, of the minimum level of Class I price herein provided. Any delay in informing interested parties will tend to make the price action ineffective.

The decision of the Assistant Secretary containing all the provisions of this order was issued June 29, 1966. Therefore, the provisions of this order are known to handlers. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers.

(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;

(The following determination is made with respect to the order amending the orders regulating the handling of milk in the New York-New Jersey, Tri-State, Greater Wheeling, Clarksburg, Appalachian, Tampa Bay, Southeastern Florida, Northwestern Indiana, Suburban St. Louis, Cincinnati, Dayton-Springfield, Columbus, Northeastern Ohio, Rock River Valley, Southern Michigan, Northwestern Ohio, Upstate Michigan, Northeastern Wisconsin, Louisville-Lexington-Evansville, Fort Wayne, Indianapolis, Madison, St. Louis, Quad Cities-Dubuque, Kansas City, Nebraska-Western Iowa, Sioux City, Minneapolis-St. Paul, Duluth-Superior, Cedar Rapids-Iowa City, Neosho Valley, Wichita, Southwest Kansas, Black Hills, Eastern South Dakota, Des Moines, Chattanooga, New Orleans, Northern Louisiana, Nashville, Paducah, Knoxville, Mississippi, Oklahoma Metropolitan, Central Arkansas, Puget Sound, North Texas, Central Arizona, Texas Panhandle, Inland Empire, Great Basin, Eastern Colorado, and Rio Grande Valley marketing areas.)

(3) The issuance of the order amending the order is 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; and

(The following determination is made with respect to the order amending the orders regulating the handling of milk in the Fort Smith, Memphis, Michigan Upper Peninsula, Milwaukee, North Central Iowa marketing areas.)

(4) The issuance of the order amending the order is favored by at least three-fourths 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 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:

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

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."

PART 1005, ETC.—MILK IN THE TRI-STATE MARKETING AREA, ETC.

Each of the orders specified below is amended by adding the following sentence at the end of the section indicated: "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."

7 CFR Part	Marketing area	Revised section
1005	Tri-State	1005.50
1008	Greater Wheeling	1008.50
1009	Clarksburg	1009.50
1011	Appalachian	1011.50
1012	Tampa Bay	1012.50
1013	Southeastern Florida	1013.50(a)
1031	Northwestern Indiana	1031.50
1032	Suburban St. Louis	1032.50
1033	Cincinnati	1033.50
1034	Dayton-Springfield	1034.50
1035	Columbus	1035.50
1036	Northeastern Ohio	1036.50
1038	Rock River Valley	1038.50
1039	Milwaukee	1039.50
1040	Southern Michigan	1040.50
1041	Northwestern Ohio	1041.50
1043	Upstate Michigan	1043.50
1044	Michigan Upper Peninsula.	1044.50
1045	Northeastern Wisconsin	1045.50
1046	Louisville-Lexington-Evansville.	1046.50
1047	Fort Wayne	1047.50
1049	Indianapolis	1049.50
1051	Madison	1051.50
1062	St. Louis	1062.50
1063	Quad Cities-Dubuque	1063.50(a)
1064	Kansas City	1064.50
1065	Nebraska-Western Iowa	1065.50
1066	Sioux City, Iowa	1066.50
1068	Minneapolis-St. Paul, Minn.	1068.51
1069	Duluth-Superior	1069.50
1070	Cedar Rapids-Iowa City	1070.50(a)
1071	Neosho Valley	1071.50
1073	Wichita	1073.50
1074	Southwest Kansas	1074.50
1075	Black Hills, S. Dak	1075.50
1076	Eastern South Dakota	1076.50
1078	North Central Iowa	1078.50(a)
1079	Des Moines	1079.50(a)
1090	Chattanooga	1090.50
1094	New Orleans	1094.50
1096	Northern Louisiana	1096.50
1097	Memphis	1097.50
1098	Nashville	1098.50
1099	Paducah	1099.50
1101	Knoxville	1101.50
1102	Fort Smith	1102.50
1103	Mississippi	1103.50
1106	Oklahoma Metropolitan	1106.50
1108	Central Arkansas	1108.50
1125	Puget Sound	1125.50
1126	North Texas	1126.50
1131	Central Arizona	1131.50
1132	Texas Panhandle	1132.50
1133	Inland Empire	1133.50
1136	Great Basin	1136.51
1137	Eastern Colorado	1137.50
1138	Rio Grande Valley	1138.50

PART 1041—MILK IN THE NORTHWESTERN OHIO MARKETING AREA

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 (Northwestern Ohio order) differs from a minus 25 cents.

* * * * * *

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

Effective date: July 5, 1966.

Signed at Washington, D.C., on July 1, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 66-7376; Filed, July 5, 1966; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

PART 1490—PAYMENTS ON EXPORTS OF CERTAIN KINDS OF TOBACCO

Subpart—Tobacco Export Program

Subpart—Tobacco export program—Revision I:

The Tobacco Export Regulations issued by Commodity Credit Corporation and published in 31 F.R. 6862 and 7556 are hereby revised and reissued.

Sec.

AUTHORITY: The provisions of this subpart are issued under secs. 4, 5, 62 Stat. 1070, as amended, 15 U.S.C. 714(B).

§ 1490.1 General.

The regulations in this subpart state the terms and conditions of a tobacco export program under which Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture, will make a cash payment to an exporter on exportation of eligible tobacco to an eligible country. The tobacco must have been exported by the exporter on or after the date of publication of this revised subpart. This revised subpart and any amendments hereto are hereinafter called "this program." Export payment will be made on submission of acceptable evidence of compliance with the provisions of this program. The regulations appearing in 31 F.R. 6862 and 7556 shall apply to exports of eligible tobacco exported prior to the publication of this program.

§ 1490.2 Definitions.

(a) The term "CCC" means Commodity Credit Corporation.

(b) The term "ASCS" means Agricultural Stabilization and Conservation Service.

(c) The term "eligible country" means any destination outside the United States other than any country or area for which an export license is required under regulations issued by the Bureau of International Commerce, U.S. Department of Commerce, unless a license for shipment or transshipment thereto has been obtained from such bureau.

(d) (1) The terms "export" and "exportation" mean, except as hereinafter provided, a shipment from the United States destined to an eligible country with the intent that the tobacco shall become a part of the mass of goods of the eligible country. Tobacco so shipped shall be considered to have been exported on the date of loading as shown on the applicable on-board vessel ocean bill of lading or other document authorized by this program to be furnished in lieu of such bill of lading, or if shipment from the United States is by truck or rail, the date the shipment clears U.S. Customs. If any of the tobacco is lost, destroyed, or damaged after loading on board a ship, for export, exportation shall be considered to have been as of the date of loading as shown on the on-board vessel ocean bill of lading or other document authorized by this program to be furnished in lieu of such bill of lading, or as of the latest date appearing on the loading tally sheet or similar documents if the loss, destruction, or damage occurs subsequent to loading aboard ship but prior to issuance of on-board vessel ocean bill of lading or such other document, except that, if the "lost" or "damaged" tobacco remains in the United States, it shall not be considered as exported if CCC determines that the condition of the "lost" or "damaged" tobacco is such that it can be disposed of in the domestic market in a manner which will adversely affect CCC's price support or export programs.

(2) Notwithstanding any of the provisions of this program, a shipment of eligible tobacco pursuant to a sale to a U.S. Government Agency shall not qualify as an export or exportation. The term "U.S. Government Agency" means any corporation wholly owned by the Federal Government, and any department, bureau, administration or other unit of the Federal Government as, for example, the Departments of the Army, Navy, and Air Force, the Agency for International Development, the Army and Air Force Exchange Service, and the Panama Canal Company. A sale to a foreign buyer, including a foreign government, though financed with funds made available by a U.S. Government Agency such as the Agency for International Development or the Export-Import Bank, is not a sale to a U.S. Government Agency unless the tobacco is transferred or caused to be transferred by such buyer to a U.S. Government Agency.

(e) The term "weight certificate" means a certificate executed by a weighman licensed by a State or other governmental authority, or by any other person acceptable to CCC, which shows the gross weight of tobacco and the container in which it is exported, or the net weight of the exported tobacco.

(f) The term "United States" means the 50 States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

§ 1490.3 Export payment and rate.

(a) Except as otherwise provided in section 1490.6 with respect to exports of eligible tobacco pursuant to a contract with CCC, CCC will make a payment on exports of eligible tobacco at the rate in effect on the date of exportation based on the unstemmed leaf packed weight, or its equivalent, of the eligible tobacco exported.

(b) The export payment rate shall be as follows:

(1) $10 per hundredweight for (i) Flue-cured tobacco (types 11–14) of the 1960, 1961, and 1962 crops, (ii) Fire-cured tobacco (type 21) of the 1959, 1960, 1961, and 1962 crops, (iii) Fire-cured tobacco (types 22–23) of the 1960, 1961, and 1962 crops and (iv) dark air-cured tobacco (types 35–36) of the 1961 and 1962 crops. If such tobacco was purchased from CCC loan stocks (tobacco pledged to CCC as security for a price support loan) under terms and conditions providing for or authorizing a refund of part of the purchase price upon proof of exportation, the exporter's application for export payment under this program shall constitute a waiver of his right to such refund. If the purchaser of the tobacco was other than the exporter, the exporter shall submit a waiver of the right to such refund signed by the person entitled thereto and, if the exporter does not furnish such a waiver, the rate of payment shall be as provided in subparagraph (2) of this subsection.

(2) $5 per hundredweight for all other kinds and crops of eligible tobacco.

(c) CCC reserves the right to reduce the export payment rate, except that, any rate reduction (i) shall be effective only after expiration of 90 days following publication thereof in the FEDERAL REGISTER and (ii) shall not apply to any contract entered into with CCC under section 1490.6 of this subpart.

§ 1490.4 Eligible tobacco.

(a) Tobacco eligible for export payment (hereinafter called "eligible tobacco") under this program shall be tobacco which is:

(1) Unstemmed leaf tobacco, or processed tobacco, such as strip, short cigar filler, blackfat, and cut tobacco, not contained in manufactured products such as, but not limited to, cigarettes, cigars, snuff, or smoking or chewing tobacco packaged for consumer use;

(2) Produced in the United States;

(3) Exported on or after date of publication of this program; and

(4) Composed of one or more of the following kinds and types: (i) Flue-

cured, types 11–14, (ii) burley, type 31, (iii) Fire-cured, types 21–23, (iv) dark air-cured, types 35–36, (v) Virginia sun cured, type 37, (vi) cigar binder, types 51–52, (vii) cigar filler & binder, types 42–44, 53–55, and (viii) Puerto Rican, type 46.

§ 1490.5 Eligible exporter.

An exporter, to be eligible to participate in this program, must be a person (an individual, corporation, partnership, association or other business entity) who (a) is engaged in the business of buying or selling tobacco for export, (b) maintains a bona fide business office in the United States for this purpose and (c) has in such office an agent who is authorized to receive service of process upon behalf of such person.

§ 1490.6 Contracts to export tobacco.

(a) An exporter who desires to obtain an export payment rate which will not be subject to reduction under paragraph (c) of § 1490.3 may submit an offer, during a 90-day period beginning with the date of publication of a rate reduction in the FEDERAL REGISTER, to export eligible tobacco of the then current or prior crops. A crop shall be identified by the calendar year in which the marketing year (July 1 for Flue-cured tobacco and October 1 for other kinds of tobacco) for such crop began. If such an offer is accepted by CCC, an exporter who otherwise complies with this program shall be entitled to receive an export payment at the rate in effect on the date the offer is submitted. The exporter's offer shall state:

(1) That the offer is subject to the terms and conditions of this program in effect at the time the offer was submitted;

(2) The kind and type of tobacco of the then current or prior crops or both which the exporter agrees to export;

(3) The net quantity of unstemmed eligible tobacco, or the unstemmed leaf packed weight equivalent of eligible tobacco, the exporter agrees to export; and

(4) That the tobacco shall be exported within 48 months following the month of acceptance of the exporter's offer by CCC.

(b) The offer, signed by an authorized official of the offeror, shall be submitted to:

Fiscal Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250.

(c) Any offer containing terms and conditions other than those authorized in this program will not be accepted. An acceptance by CCC of an exporter's offer will be made by letter to the exporter giving a contract acceptance number. The contract resulting from such acceptance shall consist of the exporter's offer, CCC's letter of acceptance, and the terms and conditions of this program in effect on the date of submission of the offer. The date of the CCC letter of acceptance will be the date of the contract.

(d) The exporter shall export or cause exportation of the quantity of eligible tobacco specified in his contract not later than the final date for exportation specified therein, or within such extension of the export period as may for good cause be approved in writing by CCC. If an extension of the exportation period is approved, it may be made subject to such reduction in the export payment rate as may be specified by CCC. The extension may be made before or after the expiration of the export period.

(e) (1) Failure of the exporter to comply with all of the terms and conditions of his contract with CCC will cause serious and substantial losses to CCC, such as damage to its export and price support programs and the incurrence of administrative and other costs. Inasmuch as it will be difficult, if not impossible, to establish the exact amount of such losses, the exporter, in submitting his offer, agrees that the liquidated damages provided in subparagraph (2) of this paragraph (e) are reasonable estimates of CCC's probable actual damages in the event of his breach of the contract.

(2) The exporter shall pay to CCC for each day of delay in exportation after the final date therefor, liquidated damages of 2 cents per hundredweight of tobacco not exported by the final date for exportation, except that such liquidated damages shall not exceed $1 per hundredweight of such tobacco. CCC shall not make any export payment under the contract with respect to eligible tobacco exported more than 90 days after the final date for export.

§ 1490.7 Application for tobacco export payment and evidence of export.

(a) The exporter shall submit an original and one copy of an application for tobacco export payment on the form prescribed by CCC to the Fiscal Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250. Supplies of the application form may be obtained from that office. The exporter, in order to receive an export payment under this program, must submit the application required by this section within 365 days from the date of export. If the tobacco is exported pursuant to a contract of sale with a foreign buyer, the exporter shall certify either (i) that such contract of sale was entered into after the publication of this program in the FEDERAL REGISTER or (ii) that the sale price in the contract of sale with the foreign buyer was reduced by an amount equal to the export payment for which application is made. If the tobacco was acquired prior to publication of this program in the FEDERAL REGISTER for export under a barter contract with CCC, the exporter shall submit the certification required by clause (ii) of the preceding sentence. The exporter shall also certify as to the kind, type, form (unstemmed leaf, strips, blackfat, etc.) and quantity of tobacco exported and, in the event the export is made under a contract entered into under section 1490.6, the particular crop or crops of tobacco exported and the contract acceptance number. If the tobacco exported is of a kind and crop specified in § 1490.3(b), the exporter shall also certify as to the particular crops exported and shall state whether or not it was purchased from CCC loan stocks under provisions requiring refund of part of the purchase price upon proof of exportation. Each application for export payment shall be supported by the following applicable documentary evidence:

(1) A statement showing, by kind and type, the unstemmed-leaf packed-weight equivalent of any eligible tobacco exported in processed form. Such unstemmed-leaf packed-weight equivalent shall be based on production records or other appropriate documents and shall be the sum of the following amounts: (i) The number of pounds of unstemmed eligible tobacco used in preparing the processed tobacco, (ii) the number of pounds of eligible tobacco obtained in strip form from an association handling CCC loan stocks and used in preparing the processed tobacco, multiplied by 1.29 and (iii) the number of pounds of eligible tobacco, farm weight, that was packed in other than unstemmed leaf form and used in preparing the processed tobacco, multiplied by 0.89 for Flue-cured and burley; 0.81 for Fire-cured, type 21; 0.90 for Fire-cured, types 22–23; and dark Air-cured, types 35–36; and 0.85 for cigar types. If the tobacco exported was only part of a quantity processed during a period covered by production records, the unstemmed - leaf packed - weight equivalent of the part exported may be determined by multiplying the pounds of unstemmed leaf or unstemmed-leaf equivalent used in preparing the total quantity by the percent that the pounds exported is to the total pounds of strips, pickings, and scrap produced during the production period, except that the part exported may not contain a larger percentage of pickings, scraps and stems than the percentage that such by-products are of the total processed tobacco prepared.

(2) If the tobacco exported was purchased from CCC loan stocks under terms and conditions providing for or authorizing a refund of part of the purchase price upon proof of exportation, the date and number of the association invoice under which the tobacco was purchased and the waiver of right to a refund required by § 1490.3.

(3) In the case of exportation by water, a nonnegotiable copy of an on-board vessel ocean bill of lading showing the number of containers of tobacco, the gross weight of the containers including the tobacco therein, the date and place of loading on board vessel, the name of the vessel, the name and address of the exporter and of the consignee, and the destination.

(4) In the case of exportation by rail or truck, a copy of the bill of lading under which the tobacco was shipped, together with (i) an authenticated landing certificate issued by an official of the Government of the country to which the tobacco was exported, or (ii) a copy of Shipper's Export Declaration authenticated by the appropriate U.S. customs official. The bill of lading and supporting export form (landing certificate or Shipper's Export Declaration) must apply to the same shipment of tobacco, and such

forms, or properly authenticated attachments, must show the number of containers of tobacco, the gross weight of containers including the tobacco therein, the date and place of entry into the country of destination, and the name and address of both the exporter and the person to whom it was shipped;

(5) A weight certificate applicable to the leaf or processed tobacco dated within 60 days prior to the date of export.

(6) A copy of the exporter's invoice to the foreign buyer or to the consignee showing the net weight of the leaf or processed tobacco exported. If the weight certificate shows only the gross weight of the leaf or processed tobacco, the exporter shall execute the following certification on the copy of the invoice submitted:

I certify that the net weights on this invoice were determined from the gross weights shown on the weight certificate applicable to the tobacco covered by this invoice in accordance with usual trade practices.

(7) If the exporter establishes that for good cause he is unable to supply the specified documentary evidence of export, CCC may accept such other evidence of export as will establish to its satisfaction that the exporter has qualified for an export payment under this program.

(b) Payment shall be made to the eligible exporter whose name appears as shipper or consignor on the bill of lading or other evidence of export required by paragraph (a) of this section. If the shipper or consignor named in the export bill of lading or other evidence of export is other than the exporter filing the application for tobacco export payment, a waiver must be submitted from the shipper or consignor named in such bill of lading or other evidence of export waiving any interest in the claim for payment in favor of the exporter filing such application.

§ 1490.8 Reentry or transshipment.

If any quantity of tobacco with respect to which an export payment has been made under this program is reentered into the United States in unmanufactured, processed, or manufactured form, or while in the course of shipment is diverted to any ineligible country, whether or not such reentry or diversion is caused by the exporter, or if any quantity of tobacco with respect to which an export payment has been made under this program is transshipped or caused to be transshipped by the exporter to any country or destination not an eligible country, the exporter shall promptly refund to CCC any export payment made with respect to the quantity of tobacco so reentered or transshipped. The exporter shall not be required to make such refund if he establishes to the satisfaction of CCC that (a) the reentry was not due to his fault or negligence and promptly after he received notice of reentry he exported the reentered tobacco, or an equivalent quantity of eligible tobacco with respect to which no export payment has been made, to an eligible country or (b) the tobacco reentered was lost, damaged, or destroyed and its physical condition is such that its reentry will not adversely affect CCC's price support or export programs.

§ 1490.9 Assignments and setoffs.

(a) No assignment shall be made by the exporter of any export payment due under this program, except that subject to paragraph (b) of this section the exporter may assign the payment due the exporter under an application for payment on the form prescribed by CCC to any trust company, Federal lending agency, or other financing institution and, subject to the approval of the Executive Vice President of CCC, assignment may be made to any other person: *Provided*, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment on Form CCC–251, "Notice of Assignment," together with a signed copy of the instrument of assignment, in accordance with the instructions on Form CCC–251: *And provided further*, That any such assignment shall cover all amounts payable and not already paid under such application, shall not be made to more than one person, and shall not be subject to further assignment, except that any such assignment may be made to one person as agent or trustee for two or more persons. The "Instrument of Assignment" may be executed on Form CCC–252, or the assignee may use his own form of assignment. Forms may be obtained from the:

Fiscal Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) If the exporter is indebted to CCC, the amount of such indebtedness may be set off against payments due the exporter under the application form provided for in §1490.7, except that if an assignment of such payment has been made CCC may set off (1) any amount due CCC with respect to the application for such payment, and (2) any other amounts due CCC if CCC notifies the assignee of such other amounts to be set off at the time acknowledgment was made of the receipt of notice of such assignment. Setoffs as provided herein shall not deprive the exporter of any right he might otherwise have to contest the justness of the indebtedness involved in the setoff action either by administrative appeal or by legal action.

§ 1490.10 Records and accounts.

Each exporter shall maintain complete and accurate records of transactions under this program, including contracts of purchase and sale, and storage and other records which will establish that the tobacco upon which export payment is made to the exporter is eligible for payment under this program. Such records shall be available during regular business hours for inspection and audit by authorized employees of the U.S. Department of Agriculture, and shall be preserved for 3 years after date of export.

§ 1490.11 Officials not to benefit.

No member or delegate to Congress or resident Commissioner shall be admitted to any benefit that may arise from any provision of this program, but this prohibition shall not be construed to extend to a payment made to a corporation for its general benefit.

§ 1490.12 Amendment and termination.

This program may be amended or terminated by publishing such amendment or termination in the FEDERAL REGISTER, except that any such termination shall be effective 90 days after publication of the notice of termination in the FEDERAL REGISTER. A notice of termination shall be considered a rate reduction for purposes of §§ 1490.3 and 1490.6. Any such amendment or termination shall not be applicable to exports made prior to the date such amendment or termination becomes effective or to tobacco for which an offer to export has been accepted by CCC in accordance with § 1490.6.

The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 1, 1966.

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

C. R. ESKILDSEN,
Acting Vice President, Commodity Credit Corporation,
Acting Administrator, Foreign Agricultural Service.

NOTICE TO EXPORTER

The Department of Commerce, Bureau of International Commerce, pursuant to regulations under the Export Control Act of 1949, prohibits the exportation or reexportation by anyone of any commodities under this program to Cuba, the Soviet bloc or Communist-controlled areas of the Far East including Communist China, North Korea, and the Communist-controlled area of Vietnam, except under validated license issued by the U.S. Department of Commerce, Bureau of International Commerce.

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

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

[F.R. Doc. 66–7371; Filed, July 1, 1966; 12:40 p.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 7464; Amdt. Nos. 21–10, 33–2, 37–6, 43–6, 61–23, 63–6, 91–30, 127–5, 133–2, 141–3, 145–6, 149–1, 183–1]

MISCELLANEOUS AMENDMENTS TO CHAPTER

These amendments update certain cross-references in the Federal Aviation Regulations and make other miscellaneous corrections.

At the time of the recodification, it was necessary to include in the Federal Aviation Regulations cross-references to the Civil Air Regulations or Special Civil Air Regulations where the referenced provision had not yet been recodified. These amendments update all these cross-references in instances where no substantive change is involved. In some instances, the cross-references as updated herein have been anticipated in compilations and reprints of the respective parts of the regulations.

For convenience, a table is utilized to state the changes that can be accomplished by a mere substitution of the proper cross-reference.

The original publication of § 91.101(a) referred to the "Bureau of Commerce" instead of the "Bureau of Customs." This error is being corrected. The introductory sentence of paragraph (b)(5) of Appendix B of Part 141 is corrected by the addition of a line of text that was inadvertently omitted in the recodification.

Since this amendment does not involve any substantive change and does not impose a burden on any person, notice and public procedure thereon are unnecessary, and the amendment may be made effective immediately.

In consideration of the foregoing, Chapter I of Title 14 is amended, effective July 6, 1966, as follows:

1. The sections listed in Column I of the following table are amended by striking out the present cross-references listed in Column II and inserting the "Corrected Cross-References" contained in Column III, in place thereof. In addition, the words "of this chapter" are inserted after all "Corrected Cross-References" where these words do not already appear.

Section affected Col. I	Obsolete cross-reference Col. II	Corrected cross-reference Col. III
21.213(b)	Parts 40, 41, 42	Part 121.
21.223(a)(2)	SR 425C § 14	§ 121.207.
21.223(f)	SR 425C § 14	§ 121.207.
21.225(a)(2)	SR 425C § 14	§ 121.207.
21.225(e)	SR 425C § 14	§ 121.207.
33.49(d)	§ 7.405(a)	Par. (a)–(j) of § 29.923.
33.67(e)	§ 4b.1(b) (7) and (8).	Appendix C of Part 25.
37.5(a)(3)	§ 1.36	§ 21.143.
43.7(e)	Part 40, 41, 42, or 46.	Part 121 or 127.
43.7(f)	Part 42	Part 121.
61.29(a)	§ 61.85, § 61.89, § 61.115, or § 61.119.	§ 61.35(c), § 61.85, § 61.89, § 61.115, or § 61.119.
61.33(b)	Part 60	§§ 91.1 through 91.9 and Subpart B of Part 91.
61.63(a)(1)	Part 60	§§ 91.1 through 91.9 and Subpart B of Part 91.
61.71(a)(1)	Part 60	Part 91.
61.71(c)(1)	Part 60	Part 91.
61.99(a)	Part 60	§§ 91.1 through 91.9 and Subpart B of Part 91.
61.129(a)(1)	Part 60	§§ 91.1 through 91.9 and Subpart B of Part 91.
91.31(c)	Part 1	Part 45.
91.41(e)	§ 1.74	§ 21.191.
91.41(i)	§ 1.24	§ 21.99.
91.45(b)(4)	§ 4b.120(c)	§ 25.67.
91.117(d)	Part 40, 41, 42, 44, or 45.	Part 121, 129, or 135.
91.165	Part 18	Part 43.
91.169(c)(1)	Part 18	Part 43.
127.83	Part 6	Part 27.
127.83	Part 7	Part 29.
127.107(c)	§ 7.18	§ 21.305.
133.19(a)(1)	Part 6 or 7	Part 27 or 29.
133.43(c)(1)	Part 6 or 7	Part 27 or 29.
133.43(c)(2)	Part 6 or 7	Part 27 or 29.
133.47 (intro. par.).	Part 6 or 7	Part 27 or 29.
141.11(d)	Part 20	Part 61.
141.47(d)(2)	Part 43	Part 91.
141.55(b)	Part 3, 4(a), or 4(b).	Part 23 or 25.
141.55(b)	Part 43	Part 91.
141.55(d)	§ 43.30(c)	§ 91.33(d).
141 Appendix A (b)(4)(i).	Parts 43 and 60	Part 91.
141 Appendix B (b)(4)(i).	Parts 43 and 60	Part 91.
141 Appendix D (a)(1)(i).	Part 20	Part 61.
145.39(d)	Part 24	Part 65.
145.57(a)	Part 18	Part 43.
145.57(b)	Part 18	Part 43.
149.9(a)(1)	Part 25	Part 65.
149.13(a)	Part 25	Part 65.
183.21(a)	Part 29	Part 67.
183.21(c)	Part 29	Part 67.
183.25(a)(1)	Part 24	Part 65.
183.25(b)(1)	Part 25	Part 65.
183.25(c)(1)	Part 26	Part 65.
183.25(d)(1)	Part 35	Part 63.
183.25(e)(1)	Part 34	Part 63.
183.25(f)(1)	Part 27	Part 65.

2. Part 21 is amended as follows:

a. Section 21.83(a) is amended by striking out the words "§ 91.41 (New) of this chapter, and § _____ (present SR 425C § 14)." and inserting the words "and §§ 91.41 and 121.207 of this chapter." in place thereof.

b. Section 21.85(d)(3) is amended to read as follows:

(3) The aircraft can be operated safely under the appropriate operating limitations specified in §§ 91.41 and 121.207 of this chapter.

c. Section 21.85(e) is amended by striking out the words "§ 91.41 (New) and §§ _____ and _____ (present SR 425C §§ 14 and 15) of this section." and inserting the words "§§ 91.41 and 121.207 of this chapter." in place thereof.

3. The subject "Federal Aviation Agency" in paragraph (a)(2)(iii) of Appendix B to Part 63 is amended by striking out the words "To include Parts 63, --, --, --, --, and -- of this chapter (Present Parts 40, 41, 42, 43 and 60)." and inserting the words "to include Parts 63, 91 and 121 of this chapter." in place thereof.

4. Part 91 is amended as follows:

a. Section 91.101(a) is amended by striking out the words "Bureau of Commerce" and inserting the words "Bureau of Customs" in place thereof.

b. Section 91.169(a)(1) is amended to read as follows:

§ 91.169 Inspections.

(a) * * *

(1) An annual inspection in accordance with Part 43 of this chapter and has been approved for return to service by a person authorized by § 43.7 of this chapter; or

* * * * *

5. Section 133.43(b) is amended by striking out the words "under Part ____ (present Part 8), or had been approved, irrespective of date of approval, under Part ____ or ____ (present Part 6 or 7)." and inserting the words "under Part 8 of the Civil Air Regulations, or had been approved, irrespective of date of approval, under Part 27 or 29 of this chapter." in place thereof.

6. Part 141 is amended as follows:

a. Section 141.19(a) is amended by striking out the words "pilot certificate and rating under Part ____ of this chapter (present Part 20)," and inserting the words "private or commercial pilot certificate and rating under Part 61 of this chapter," in place thereof.

b. Section 141.43(c)(2) is amended to read as follows:

§ 141.43 Equipment requirements.

* * * * *

(c) * * *

(2) Models, mockups, cutaways, and classroom-size or lecture-size blueprints and diagrams covering the operation and function of instruments and equipment required under §§ 91.25, 91.33, and 91.35 of this chapter and those required under Parts 21, 23, and 27 of this chapter as they relate to the course being taught.

c. The introductory sentence of paragraph (b)(5) of Appendix B of Part 141 is amended to read as follows:

APPENDIX B—FLIGHT TRAINING—COMMERCIAL FLYING SCHOOL

* * * * *

(b) * * *

(5) *Basic instrument flying (minimum 10 hours, 5 hours instrument instruction).* The specified 10 hours of instrument training shall be given in an airplane in flight. At least 5 hours shall be given by a rated instrument flight instructor; the remaining 5 hours may be given by the holder of a flight instructor certificate with an airplane rating.

* * * * *

(Sec. 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1354(a))

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

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 66-7311; Filed, July 5, 1966; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 7446; Amdt. 490]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

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

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
RNO VOR	RNO RBn	Direct	9000	T-dn%	1000-2	1000-2	1000-2
Mustang Int	RNO RBn	Direct	9000	C-dn	1600-2	1600-2	1600-2
Verdi Int	RNO RBn	Direct	10,000	A-dn	2000-3	2000-3	2000-3
Pyramid Int	Sparks RBn	Direct	9000				
Sparks RBn	Reno RBn (final)	Direct	7000				

Procedure turn E side of crs, 341° Outbnd, 161° Inbnd, 8700′ within 10 miles.
All turns E side of crs, high terrain W.
Minimum altitude over facility on final approach crs, 6700′.
Crs and distance, facility to airport, 161°—2.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.3 miles after passing RNO RBn, turn left, climb to 9000′ on 341° crs from RNO RBn within 15 miles.
AIR CARRIER NOTE: Reduction in visibility by sliding scale or local conditions not authorized for takeoff or landing.
%IFR departures must comply with published Reno SID's unless otherwise directed by ATC.
MSA within 25 miles of facility: 000°–090°—9400′; 090°–180°—11,000′; 180°–270°—11,800′; 270°–360°—9300′.

City, Reno; State, Nev.; Airport name, Reno Municipal; Elev., 4411′; Fac. Class., SBH; Ident., RNO; Procedure No. 1, Amdt. 3; Eff. date 21 Ju y 66; Sup. Amdt. No. 2; Dated, 5 Dec. 64

Washoe Int	Sparks RBn	Direct	11,000	T-dn%	1000-2	1000-2	1000-2
Wadsworth Int	Sparks RBn	Direct	10,000	C-dn	1600-2	1600-2	1600-2
Verdi Int	Sparks RBn	Direct	10,000	A-dn	2000-3	2000-3	2000-3
Steamboat Int	Sparks RBn	Direct	9000				
Reno VOR	Sparks RBn	Direct	9000				
Mustang Int	Sparks RBn	Direct	9000				
Pyramid Int	Sparks RBn (final)	Direct	8000				
Truckee Int	Sparks RBn	Direct	10,500				

Procedure turn W side of crs, 342° Outbnd, 162° Inbnd, 9000′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over Sparks RBn on final approach crs, 8000′; over Reno RBn, 6700′.
Crs and distance, Sparks RBn to airport, 161°—11.1 miles; RNO RBn to airport, 161°—2.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 11.1 miles after passing Sparks RBn, 2.3 miles after RNO RBn, turn left direct to Sparks RBn climbing to 10,000. Hold N, Sparks RBn, 1-minute pattern, 162° Inbnd, right turns.
AIR CARRIER NOTE: Reduction in visibility by sliding scale or local condition not authorized for takeoff or landing.
%IFR departures must comply with published Reno SID's or as directed by ATC.
MSA within 25 miles of facility: 000°–090°—9400′; 090°–180°—11,800′; 180°–270°—11,800′; 270°–360°—9800′.

City, Reno; State, Nev.; Airport name, Reno Municipal; Elev., 4411′; Fac. Class., MHW; Ident., SPK; Procedure No. 2, Amdt. 2; Eff. date, 21 July 66; Sup. Amdt. No. 1; Dated, 20 Mar. 65

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

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Pyramid Int/DME Fix	RNO VOR	Direct	9000	T-dn%	1000-2	1000-2	1000-2
Mount Rose DME Fix	RNO VOR	Direct	9000	C-dn	2000-2	2000-2	2000-2
Verdi Int/DME Fix*	RNO VOR	Direct	10,000	A-dn	2500-3	2500-3	2500-3
Steamboat Int/DME Fix	RNO VOR	Direct	9000				

Procedure turn S side crs, 049° Outbnd, 229° Inbnd, 9000′ within 10 miles.
All turns S side of crs, high terrain, N.
Minimum altitude over facility on final approach crs, 8100′.
Crs and distance, facility to airport, 229°—5.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.1 miles after passing RNO VOR, turn right, climb to 9000′ on RNO VOR, R 049°, within 10 miles of VOR.
CAUTION: If contact not established at minimums, missed approach must be started immediately due to high terrain, W.
AIR CARRIER NOTE: Reduction in visibility by sliding scale or local conditions not authorized for takeoff and landing.
NOTE: When authorized by ATC, DME may be used within 10 to 15 miles at 10,000 between RNO, R 330° clockwise to RNO, R 117° to position aircraft for straight-in approach with the elimination of procedure turn.
*9000′ authorized if DME used to identify Verdi DME Fix.
%IFR departures must comply with published Reno SID's or as directed by ATC.
MSA within 25 miles of facility: 000°–180°—9500′; 180°–270°—11,800′; 270°–360°—9200′.

City, Reno; State, Nev.; Airport name, Reno Municipal; Elev., 4411′; Fac. Class., BVORTAC; Ident., RNO; Procedure No. 1, Amdt. 15; Eff. date, 21 July 66; Sup. Amdt. No. 14; Dated, 24 July 65

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

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Washoe Int	Sparks RBn	Direct	11,000	T-dn%	1000-2	1000-2	1000-2
Wadsworth Int	Sparks RBn	Direct	10,000	C-dn*	1000-2	1000-2	1000-2
Verdi Int	Sparks RBn	Direct	10,000	A-dn	1500-3	1500-3	1500-3
Steamboat Int	Sparks RBn	Direct	9000				
RNO VOR	Sparks RBn	Direct	9000				
Mustang Int	Sparks RBn	Direct	9000				
Truckee Int	Sparks RBn	Direct	10,500				
Pyramid Int	Sparks RBn (final)	Direct	8000				

Procedure turn W side of crs, 342° Outbnd, 162° Inbnd, 9000′ within 10 miles.
Minimum altitude over SPK RBn or 11.4-mile DME Fix on final approach crs, 8000′; R 303°, RNO VOR or 7.9-mile DME Fix, 7150′; OM or 6-mile DME Fix, 6342′; MM or 2.5-mile DME Fix, 5411′.
Crs and distance, facility to airport MM, 162°—2.3 miles.
Minimum altitude at glide slope interception Inbnd, 8000′.
Altitude of glide slope and distance to approach end of runway at OM, 6342′—5.8 miles. Minimum altitude on glide slope, 5411′.
If visual contact not established upon descent to authorized landing minimums, over MM/RBn/2.5-mile DME Fix, turn left, proceed direct to Sparks RBn climbing to 10,000′. Hold N, Sparks RBn, 1-minute pattern, right turns, 162° Inbnd.
%IFR departures must comply with published Reno SID's, or as directed by ATC.
*1000-2 required when glide slope not utilized.

City, Reno; State, Nev.; Airport name, Reno Municipal; Elev., 4411′; Fac. Class., ILS; Ident., I-RNO; Procedure No. ILS-16, Amdt. 2; Eff. date, 21 July 66; Sup. Amdt. No. 1; Dated, 27 Feb. 65

Muskgrove Int	Franktown Int	Direct	10,700	T-dn%	1000-2	1000-2	1000-2
Franktown Int	Washoe Int	Direct	9700	C-dn	900-2	900-2	900-2
Virginia City Int	Gold Hill Int	Direct	10,000	A-dn	1300-3	1300-3	1300-3
Gold Hill Int	Washoe Int	Direct	9700				
Washoe Int	12-mile DME Fix, BC localizer	Direct	8200				
12-mile DME Fix, BC localizer	9-mile DME Fix, BC localizer	Direct	7500				
9-mile DME Fix, BC localizer	7-mile DME Fix, BC localizer	Direct	6900				
7-mile DME Fix, BC localizer	4-mile DME Fix, BC localizer	Direct	6000				
4-mile DME Fix, BC localizer	1.5-mile DME Fix, BC localizer	Direct	5311				

Procedure turn not authorized. Final approach crs, 342° Inbnd from Washoe Int.
Minimum altitude over Washoe Int, 9700′; 12-mile DME Fix on final approach crs, 8200′; over 9-mile DME Fix, 7500′; over 7-mile DME Fix, 6900′; over 4-mile DME Fix, 6000′; over 1.5-mile DME Fix, 5311′.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 1.5-mile DME Fix, climb straight ahead to 7000′, right turn, continue climb to 9000′ direct RNO VOR, thence on the 039° radial within 10 miles of RNO VOR.
NOTE: DME should not be used to determine aircraft position over runway threshold, or runway touchdown point. DME located at glide slope.
%IFR departures must comply with RNO SID's unless otherwise directed by ATC.

City, Reno; State, Nev.; Airport name, Reno Municipal; Elev., 4411′; Fac. Class., ILS; Ident., I-RNO; Procedure No. ILS-34 (back crs), Amdt. Orig.; Eff. date, 21 July 66

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Sargo Int (I-SAN 10.1 DME)	OM (final) (I-SAN 2.9 DME)	Direct	#1000	T-dn*	300-1	300-1	200-½
Bostonia Int	OM	Direct	2500	C-dn	800-2	800-2	800-2
SAN VOR	OM	Direct	1500	S-dn-9**	400-¾	400-¾	400-1
10-mile I-SAN DME Fix on SAN, R 326°	Counterclockwise to 10-mile I-SAN DME Fix on I-SAN front crs.	10-mile arc, CHAN 46.	2500	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 272° Outbnd, 092° Inbnd, 1500′ within 10 miles.
Minimum altitude at 4.3 DME on final approach crs, 1500′; over OM (2.9 DME), 1020′.
Crs and distance, OM to airport, 092°—2.7 miles.
#Minimum altitude at glide slope intercept 4.3 DME 1500′, altitude of glide slope and distance to approach end of runway at OM, 1020′—2.7 miles, at MM, 352′—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at MM, make immediate left-climbing turn to 2500′ on SAN VORTAC, R 146° and R 326° or 331° crs from LMM to Mount Dad Int (SAN R 326°, 3.2 DME), or when directed by ATC, make a right-climbing turn to 2000′ on SAN VORTAC, R 140°, within 10 miles.
NOTE: If DME is lost, proceed direct to LOM at 2500′. DME should not be used to determine aircraft position over MM, runway threshold, or runway touchdown point. DME located at glode slope site.
CAUTION: Buildings and terrain, 472′—0.5 mile E of airport.
**600-1 required if glide slope not utilized, 600-¾ authorized, except for 4-engine turbojet aircraft with operative ALS.
*500-1 required for Runway 9.

City, San Diego; State, Calif.; Airport name, San Diego International-Lindberg Field; Elev., 15′; Fac. Class., ILS; Ident., I-SAN; Procedure No. ILS-9, Amdt. 6; Eff. date, 21 July 66; Sup. Amdt. No. 5; Dated, 16 Oct. 65

Bostonia Int	Sweetwater Int (I-SAN 10.1 DME)	Direct	3700	T-dn*	300-1	300-1	200-½
Sweetwater Int (I-SAN 10.1 DME)	Encanto Int (I-SAN 6.0 DME) (final)	Direct	1600	C-dn	800-2	800-2	800-2
10-mile I-SAN DME Fix on SAN, R 076°	Clockwise to 10-mile I-SAN DME Fix on I-SAN back crs.	10-mile arc CHAN 46.	3700	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn not authorized. Final approach crs, Inbnd 272°.
Minimum altitude over Encanto Int on final approach crs, 1600′.
Crs and distance, Encanto Int to airport, 272°—4.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.8 miles after passing Encanto Int turn right, climb to 2500′ on SAN VOR R 326° to Mount Dad Int (SAN, R 326°, 3.2 DME), or when directed by ATC, climb to 1500′ on localizer crs to Sargo Int (I-SAN, 10.1 DME).
NOTE: If DME is lost proceed direct to LOM at 3700′. DME should not be used to determine aircraft position over MM, runway threshold, or runway touchdown point. DME located at glide slope site.
CAUTION: Buildings and terrain, 469′—0.5 mile E of airport.
*500-1 required for takeoff, Runway 9.

City, San Diego; State, Calif.; Airport name, San Diego International-Lindberg Field; Elev., 15′; Fac. Class., ILS; Ident., I-SAN; Procedure No. ILS-27 (back crs), Amdt. 6; Eff. date, 21 July 66; Sup. Amdt. No. 5; Dated, 16 Apr. 66

These procedures shall become effective on the dates specified therein.

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

Issued in Washington, D.C., on June 17, 1966.

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

[F.R. Doc. 66-6844; Filed, July 5, 1966; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Foreign Origin; Razor Blade Dispensers

§ 15.69 Foreign origin; razor blade dispensers.

(a) The Commission rendered an advisory opinion advising an American manufacturer of razor blades that it would not be necessary to disclose the country of origin of imported plastic razor blade dispensers and end clips into which were packed domestically manufactured blades, nor was there any objection to labeling the completed package as made in this country. The Commission was of the view that such a description would be taken as applying to the blades and that the purchaser would have no real concern with the origin of the dispenser which is designed to be thrown away after the blades are used.

(b) The facts were that after the dispenser cases and end clips were received in this country, a spring and the blades would be inserted, a pusher slide added and the end clip put in place. The spring, slide or pusher and the blades would be manufactured in the United States.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: July 5, 1966.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 66-7332; Filed, July 5, 1966; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Bargain Offers Based Upon Purchase of Other Merchandise

§ 15.70 Bargain offers based upon purchase of other merchandise.

(a) The Commission rendered an advisory opinion disapproving a retailer's proposal to offer a free sewing machine with the purchase of a cabinet.

(b) Under the terms of the proposed plan, the retailer intends to place one sewing machine on display in various locations, such as bowling alleys, supermarkets, shopping centers, etc. A nearby sign will invite one to fill out a registration card and deposit same in a box. Each month one name will be drawn from the box in each location where the machine is on display and the winner will receive a free sewing machine with cabinet. In addition, 50 names will be drawn from each box and these persons will be sent a letter informing them they can obtain a free sewing machine head simply by purchasing the cabinet. According to the letter to be sent to the 50 winners, the cabinets range in price "from $39.95."

(c) In its opinion, the Commission concluded as follows: "* * * that part of your plan which provides for prospective customers to win a free sewing machine with cabinet is unobjectionable. However, the Commission is of the opinion that part of the proposed plan which offers to 50 persons a 'free' sewing machine head for the price of the cabinet

involves the sale of merchandise by means of a lottery or by means of a chance or gaming device and therefore would be illegal as an unfair trade practice under section 5 of the Federal Trade Commission Act. As a result, the Commission cannot give its approval to this aspect of your proposed plan in its present form."

(d) Commenting upon other features of the proposed plan, the Commission said: "When a seller offers to supply one article 'free' or 'at no extra cost' in conjunction with the purchase of another article, he is thereby representing to prospective customers that the article which is to be purchased is being sold at no more than the price at which it is usually sold in substantial quantities. Accordingly, if you should eliminate that aspect of your proposed plan appealing to the public's gambling instinct, then the price of the cabinets which the consumer is to purchase in order to obtain a 'free' sewing machine head must meet this standard."

(e) "Finally," the Commission's opinion concluded, "there must be a bona fide effort to sell the merchandise offered and a plan of this nature may not be used simply as a means to obtain leads which will be used to sell more expensive cabinets and/or sewing machines."

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: July 5, 1966.

By direction of the Commission.[1]

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 66-7331; Filed, July 5, 1966; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Dietary Supplements and Vitamin and Mineral-Fortified Foods; Foods for Special Dietary Use

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120; 31 F.R. 3008), Part 3 is amended by adding thereto the following new section:

§ 3.46 Interpretations of orders relating to dietary supplements; vitamin and mineral-fortified foods; foods for special dietary use.

In the FEDERAL REGISTER of June 18, 1966 (31 F.R. 8521), the Commissioner of Food and Drugs issued regulations in Part 5, Part 80, and Part 125 of this chapter. Following publication, the Commissioner received requests for clarification of certain of these regulations. As a guide to those who may be making determinations as to whether or not objections should be filed to these particular regulations under section 701(e) of the Federal Food, Drug, and Cosmetic Act, the Commissioner issues the interpretations hereinafter set forth. In announcing the confirmation of the effective date of the subject regulations, it will be the purpose of the Commissioner to make editorial changes in the sections involved consistent with this policy statement.

(a) The fact that certain standardized foods, such as enriched flour, enriched bread, etc., do not appear in § 80.2(c) of the order of June 18, 1966 (31 F.R. 8525), is of no significance. Standards already promulgated for such foods are controlling. Section 80.2(g) is not applicable to standards issued earlier, such as that for enriched bread. The standard in § 80.2 (c) for alimentary pastes does not apply to those products covered by §§ 16.9 to 16.12, inclusive, and § 16.14 of this chapter.

(b) In § 80.2(c), representations have been made that the size portions of fruit juices should be changed from 4 fluid ounces to 6 fluid ounces. Decision on this point will be reserved until additional information is received. All who have data in this area are invited to submit it to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201.

(c) Under § 80.2(c), a point has been raised that the 8-ounce serving for processed cereals is unrealistic. This specification "8 ounces" is in error and should be "1 ounce."

(d) Under § 80.2(c), representations have been made that infant cereals should be permitted to be fortified to levels above those allowed for whole grain. Consideration will be given to any data received on this point.

(e) It is represented that, in addition to the foods listed in current standards of identity as "enriched" and the foods set forth in § 80.2(c), other foods should be authorized for carrying added vitamins and/or minerals. The Commissioner will consider proposals in this area consistent with the policy outlined in § 80.2(a) if accompanied by reasonable grounds.

(f) In the statement of authority for the issuance of Part 80, section 403(j) (52 Stat. 1048; 21 U.S.C. 343(j)) was inadvertently omitted. That section of the Federal Food, Drug, and Cosmetic Act, together with the prohibition against false and misleading claims and the general authority to issue regulations for the efficient enforcement of the act, are relied upon to support some provisions of Part 80.

(g) With respect to § 125.4(b) of the order of June 18, 1966 (31 F.R. 8521), the term "such food" relates to § 125.4(a). It does not apply to a food which is merely prepared in a form suitable for use by infants, such as pureed spinach, where the product does not otherwise purport to be and is not represented for special dietary use for infants.

(h) Section 125.5(b) applies also to foods that have been standardized (under section 401 of the act) containing artificial sweeteners, such as artificially sweetened canned peaches.

(i) In § 125.5(b)(4), the comparison to be made may be with a comparable item customarily made and sold; for example, artificially sweetened canned peaches may be compared with the same kind of peaches in heavy or extra heavy sirup. The regulations do not authorize the marketing of artificially sweetened condiments, such as steak sauce.

(j) Foods subject to §125.5 (e) and (f) shall also bear the label statements required by § 125.5(a).

(k) The comparison required by § 125.5(e) is a comparison with a comparable product that the food is to replace; for example, canned peaches with artificially sweetened canned peaches, not canned peaches with lettuce. Water-packed products may be offered as "packed in water" and labeled "lower in calories" when a 50-percent reduction in caloric value is effected by the water pack.

(l) In making a determination of the application of the "lower in calories" provision of § 125.5(e), the comparison need not necessarily be made with a product of the same manufacturer. (See the comment on § 125.5(b)(4) in paragraph (d) of this section.) The restrictions of § 125.5(b)(4) shall apply in considering the application of § 125.5(e).

(m) With reference to § 125.5, questions have been asked about the use of alternative or replacement terms, such as "reduced in calories" instead of "lower in calories" and "low calorie." The Food and Drug Administration will consider any data submitted in support of such proposals.

(Secs. 401, 403(j), 701, 52 Stat. 1046, as amended, 1048, 1055, as amended; 21 U.S.C. 341, 343(j), 371)

Dated: June 30, 1966.

JAMES L. GODDARD, *Commissioner of Food and Drugs.*

[F.R. Doc. 66-7317; Filed, July 5, 1966; 8:45 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SODIUM MONO- AND DIMETHYL NAPHTHALENE SULFONATES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2A0544) filed by Continental Chemical Co., 2175 Acoma Street, North Sacramento, Calif. 95815, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of sodium mono- and dimethyl naphthalene sulfonates in the washing or to assist in

[1] Commissioner Elman did not concur. Dissenting statement filed with the Commission.

the lye peeling of fruits and vegetables. 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), § 121.1091(a)(2) is amended by adding alphabetically to the list of substances a new item as follows:

§ 121.1091 **Chemicals used in washing fruits and vegetables.**

* * * * *

(a) * * *

(2) * * *

Substances	*Limitations*
* * *	* * *
Sodium mono- and dimethyl naphthalene sulfonates (mol. wt. 245–260).	Not to exceed 0.2 percent in wash water. May be used in the washing or to assist in the lye peeling of fruits and vegetables.

* * * * *

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 State. 1786; 21 U.S.C. 348(c)(1))

Dated: June 29, 1966.

J. K. KIRK,
Assisitant Commissioner for Operations.

[F.R. Doc. 66–7319; Filed, July 5, 1966; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 1–5.10—Use of Excess Aluminum

Correction

In F.R. Doc. 66–6834, appearing at page 8621 of the issue for Wednesday, June 22, 1966, the last line of § 1–5.1001–2 is corrected by changing the word "compliance" to read "noncompliance".

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 16550; FCC 66–574]

PART 25—SATELLITE COMMUNICATIONS

Definitions; Party Making Procurement

Report and order. In the matter of amendment of Part 25 of the Commission's rules and regulations with respect to the procurement of apparatus, equipment, and services required for the establishment and operation of the communications satellite system and satellite terminal stations.

1. On March 24, 1966, the Commission adopted a notice of proposed rule making, requesting comments from interested parties, which would amend Subpart B of Part 25 of the Commission's rules and regulations by amending § 25.156(e) by adding the following language: *"Provided further, however,* That the term 'party making procurement' shall not include any person or firm engaged in the procurement of property or services required for the establishment or operation of the space segment of a communications satellite system (as said space segment is defined in the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System opened for signature on 20 August, 1964, at Washington) if such person is a resident of, or such firm is organized under the laws of, a foreign jurisdiction and has his or its principal place of business outside the United States."

2. The Commission's notice of proposed rule making was issued in response to a petition filed by the Communications Satellite Corporation (Comsat) which requested the proposed amendment. Comsat's position was that as currently written the rules literally "* * * have the effect of imposing U.S. regulatory requirements upon public and private entities wholly outside the jurisdiction of the United States."

3. Comsat filed a comment requesting adoption for reasons put forth in its petition.

4. The only other comment received was from the Department of State, which urged the adoption of the amendment.

5. Based upon the comments received and an evaluation of all relevant information, the Commission finds the adoption of the proposed amendment would serve the public interest, convenience, and necessity.

6. It appearing, that authorization for the adoption and amendment of the rules is contained in sections 201(c)(1) and 201(c)(11) of the Communications Satellite Act of 1962, and section 4(1) of the Communications Act of 1934, as amended:

7. *It is, therefore, ordered,* This 29th day of June 1966, that:

(a) Section 25.156(e) of Subpart B, Part 25, of the Commission's rules and regulations be amended effective August 8, 1966, as set forth below; and

(b) The proceedings in Docket 16550 be terminated.

(Sec. 4, 48 Stat., 1066, as amended, 47 U.S.C. 154; secs. 201, 76 Stat., 42, 47 U.S.C. 721)

Released: June 30, 1966.

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

Section 25.156(e) is amended to read as follows:

§ 25.156 **Definitions.**

* * * * *

(e) *Party making procurement.* The term "party making procurement" means any person or firm engaged in the procurement of property or services required primarily for the establishment and operation of a communications satellite system or a satellite terminal station including the corporation, carriers, prime contractors, and subcontractors: *Provided, however,* For the purposes of §§ 25.162–25.167, inclusive, the term "party making procurement" means the corporation, carriers, and prime contractors: *Provided further, however,* That the term "party making procurement" shall not include any person or firm engaged in the procurement of property or services required for the establishment or operation of the space segment of a communications satellite system (as said space segment is defined in the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System opened for signature on August 20, 1964, at Washington) if such person is a resident of, or such firm is organized under the laws of, a foreign jurisdiction and has his or its principal place of business outside the United States.

* * * * *

[F.R. Doc. 66–7323; Filed, July 5, 1966; 8:46 a.m.]

[Docket No. 15404; FCC 66–589]

PART 73—RADIO BROADCAST SERVICES

FM Stations Engaged in SCA or Multiplex Stereophonic Operations

In the matter of amendment of Part 73 of the Commission's rules and regulations to require FM broadcast stations engaging in multiplex stereophonic programing or SCA operation to install type approved frequency and modulation monitors capable of monitoring subcarrier operation; Docket No. 15404.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 29th day of June 1966;

1. The National Association of Broadcasters, on June 23, 1966, filed to stay the effective date (July 5, 1966) for FM

broadcast stations engaged in SCA or multiplex stereophonic operations for making the measurements under §§ 73.295(i), 73.297(b), 73.595(i), and 73.596(b). The reasons cited for such deferment are that equipment is not readily available for making such measurements and that delivery of orders are backed up for several months. Accordingly, a 6-month stay is requested.

2. Paragraph 4 of the report and order, adopted May 25, 1966 (FCC 66-459), pertinently pointed out that complicated equipment was not necessarily needed for these purposes. However, the Commission recognizes that the time between the amendment of these rules and regulations and the effective date may not have afforded sufficient time for FM stations to comply. The Commission, however, does not believe that these provisions should be deferred for 6 months as requested by NAB, but that some additional time should be given.

3. It is our view that a deferment of a lesser period should be more than sufficient to resolve the problems which have confronted the stations in question and equipment manufacturers. Accordingly, the Commission hereby orders that the effective date for making measurements under §§ 73.295(i), 73.297(b), 73.595(i), and 73.596(b), is deferred until October 21, 1966.

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

Released: June 30, 1966.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,

Secretary.

[F.R. Doc. 66-7324; Filed, July 5, 1966; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1073, 1074]

[Docket Nos. AO–173–A17, AO–249–A7]

MILK IN WICHITA, KANS., AND SOUTHWEST KANSAS MARKETING AREAS

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Wichita, Kans., and Southwest Kansas marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PRELIMINARY STATEMENT

The joint hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Wichita, Kans., on November 16–17, 1965, pursuant to notice thereof which was issued October 5, 1965 (30 F.R. 12847), and was subsequently reopened June 7, 1966, pursuant to notice issued May 27, 1966 (31 F.R. 7831).

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

1. Merger of the Wichita, Kans., and Southwest Kansas orders with inclusion of additional territory in the marketing area.
2. Milk to be priced and pooled.
3. Classification and allocation.
4. Class prices.
5. Location adjustments to the Class I and producer prices.
6. Take out-pay back plan of distributing returns to producers.
7. Miscellaneous administrative and conforming changes.

A decision and order based on the record of this hearing concerning the classification and pricing of skim milk and butterfat used to produce cottage cheese as it applies to the present Wichita order for the period required for action on the remaining issues have been issued. This decision concerns itself with the classification and pricing of cottage cheese as it applies to the proposed merged and expanded marketing area, as well as all other issues.

FINDINGS AND CONCLUSIONS

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

1. *Merger of Orders No. 73 and 74.* Order No. 73 regulating the handling of milk in the Wichita, Kans., marketing area and Order No. 74 regulating the handling of milk in the Southwest Kansas marketing area should be merged into a single regulation and the marketing area extended. The order thus created should be designated as the Wichita, Kans., marketing area.

The marketing area should include all the territory within the following 43 Kansas counties:

ZONE I

Barber.	Marion.
Barton.	McPherson.
Butler.	Pawnee.
Comanche.	Pratt.
Cowley.	Reno.
Edwards.	Rice.
Ellis.	Rush.
Harper.	Russell.
Harvey.	Sedgwick.
Kingman.	Stafford.
Kiowa.	Sumner.

ZONE II

Clark.	Lane.
Finney.	Meade.
Ford.	Morton.
Gove.	Ness.
Grant.	Scott.
Gray.	Seward.
Greeley.	Stanton.
Hamilton.	Stevens.
Haskell.	Trego.
Hodgeman.	Wichita.
Kearny.	

The present Wichita, Kans., order includes the Kansas counties of Butler, Cowley, Harvey, Marion, Sedgwick, and Sumner. The total population of these six counties is slightly more than 460,000.

The present Southwest Kansas marketing area includes the territory within the boundaries of 26 cities and 14 townships located in 23 different Kansas counties. The total population of the cities and townships of the marketing area is approximately 124,000. The total population of the 23 counties is 195,000.

In addition to the 23 counties where cities and townships of the Southwest Kansas marketing area are located it is proposed to add 14 counties. One of these counties is Haskell County, which is surrounded by certain of the present 23 counties. Another is Morton County adjoining the States of Colorado and Oklahoma in the extreme southwest corner of Kansas. Seven other counties are Greeley, Wichita, Lane, Gove, Trego, Ellis, and Russell, lying to the north of the present Southwest Kansas marketing area. The population of these nine counties is 57,000. It is further proposed that the Kansas counties of McPherson, Rice, Reno, Kingman, and Harper, with a population of 118,000, be added to the marketing area. These five counties lie between the present marketing areas. These additions will result in one contiguous and practicable marketing area composed of 43 Kansas counties. The principal cities in the territory to be added are Hutchinson (Reno County) with a population of about 38,000, Hays (Ellis County), 13,000; McPherson (McPherson County) 10,000; Russell (Russell County) 6,000 and Lyons (Rice County) 5,000. The total population of the newly created area is approximately 830,000.

There is no further need of two separate orders. Milk moves freely between the two markets both from the farm, in bulk transfers and in processed form.

There are two cooperative associations representing producers in these marketing areas. The major cooperative association currently represents almost all the producers in the Southwest Kansas market and approximately 75 percent of producers in the present Wichita market. This cooperative operates supply plant facilities in Dodge City and Wichita, Kans., and a manufacturing plant located at Arkansas City. It supplies, at the present time, approximately 80 percent of the milk needed for fluid milk products by Wichita handlers and nearly all of the supply of fluid milk products needed by handlers currently regulated by the Southwest Kansas order. The association moves milk in bulk tanks both from farms and from these plants to handler plants in each of the presently constituted marketing areas. In addition to furnishing the supply of milk for handlers in these two marketing areas, it also supplies milk to the Neosho Valley, Kansas City, and Rio Grande Valley marketing areas. Bulk milk supplies are also furnished several unregulated markets. It has been the practice of this cooperative to blend the returns from the sale of milk from the various markets to its member producers.

During the past several years handlers regulated by the Wichita order have expanded the distribution of fluid milk products throughout the present Southwest Kansas marketing area as well as throughout the proposed expanded area. At the present time, approximately one-

third of the Class I milk sales in the Southwest Kansas marketing area are made by handlers presently regulated by the Wichita order.

The other cooperative association with producer members operates distributing plants at Hillsboro and Hutchinson, Kans., at which the milk of its members is received. The Hillsboro operation also processes manufacturing milk products. The plant of this association at Hutchinson, Kans., is not now regulated but would be regulated by the addition of McPherson, Rice, Reno, Kingman, and Harper Counties that are proposed to be added to the marketing area.

The seven counties (Greely, Wichita, Lane, Gove, Trego, Ellis, and Russell) lying north of the present Southwest Kansas marketing area and Haskell and Morton Counties should be added to the marketing area. Handlers now regulated by the present orders distribute fluid milk products on routes throughout these counties as well as in the area of the 23 counties wherein lie the cities and townships of the present Southwest Kansas marketing area.

A handler not now regulated is located in Ellis County. There are no handlers in the other eight counties referred to. At the present time the major cooperative association supplying milk to regulated handlers in the Southwest Kansas marketing area also supplies milk to the handler in Ellis County in addition to the milk he buys from about 12 dairy farmers not members of the cooperative association.

The five-county area of McPherson, Rice, Reno, Kingman, and Harper has located within its boundaries three handlers receiving milk from approximately 42 producers. These handlers also receive additional supplies from the major cooperative association. It has been the practice of these three handlers as well as the one located in Ellis County to buy supplemental supplies of milk from the major cooperative association in the area. They have thus not been burdened with excess supplies or even the necessity of carrying a normal reserve supply of milk to meet their needs. The reserve supply of milk for these four handlers has been carried by the producers supplying handlers in the Southwest Kansas and Wichita, Kans., orders.

In addition to the plants that would become fully regulated by the addition of the counties proposed herein, three other handlers selling 10 to 15 percent of their total Class I sales in the proposed added area would be regulated under the proposed expanded Greater Kansas City order. The primary sales area of these three handlers has been proposed, in a concurrent decision, to be added to the Greater Kansas City order and thus they would be fully regulated under that order.

In the 14 counties proposed to be added to the marketing area, handlers now regulated by the Southwest Kansas and Wichita orders distribute about 45 percent of the fluid milk products, unregulated handlers 50 percent and the remaining 5 percent is distributed by handlers regulated by other Federal milk orders.

With the adoption of the proposed order, regulated handlers will distribute 85 percent of the fluid milk products in these counties (45 percent by present handlers and 40 percent by newly regulated handlers). The remaining distribution of fluid milk products in this new area will be from plants to be regulated by the Greater Kansas City order as proposed in the concurrent decision to expand the marketing area of that order.

The operator of one of the presently unregulated plants opposed the addition to the marketing area of counties to the north of the present Southwest Kansas order. This handler was concerned about possible changes in regulation of his Concordia, Kans., plant between the revised Wichita and Greater Kansas City orders. Since the record does not reveal the percentage of the total Class I business in each county proposed to be added to the area, it can only be estimated that the total distribution of fluid milk products in the marketing area as proposed herein will approximate 15 percent of the total distribution of these products from the Concordia plant. Approximately 60 percent of this plant's Class I business will be in the amended Greater Kansas City order (see concurrent decision). Therefore, unless this handler makes significant changes in the distribution of fluid milk products in these two proposed marketing areas, his Concordia plant will be consistently regulated by the Greater Kansas City order.

The counties of Ellsworth, Graham, Lincoln, Osborne, Rooks, and Sheridan with a total population of about 40,000 should not be added to the marketing area. Only one handler purchasing milk from three dairy farmers is located within these six counties. This handler is located in Lincoln County and all his sales are in this county. Forty percent of the Class I milk sales in Lincoln County are made by this handler, 6 percent by handlers presently regulated by the Wichita order and 54 percent by handlers to be regulated by the Greater Kansas City order. In the remaining five counties the evidence is inconclusive with respect to the amount of fluid milk products distributed by unregulated handlers and handlers regulated by the Greater Kansas City order. Omission of these counties should in no way contribute to disorderly marketing. A hearing was held in Kansas City, November 22–24, 1965, on proposals which included merger of the present St. Joseph, Mo., and Greater Kansas City marketing areas and further enlarge the resulting marketing area. Handlers currently listed as unregulated and distributing milk in the counties of Ellsworth, Graham, Osborne, Rooks, and Sheridan would all be regulated under a combined and expanded St. Joseph-Greater Kansas City order as a result of this hearing and as proposed in a concurrent decision on this matter. A handler located in Ellis County who would become fully regulated by the addition of counties proposed herein has slightly less than 30 percent of his Class I milk sales in Rooks County. All of the remaining sales area of this handler is in the marketing area in the counties of Gove, Trego, Ellis, and Graham.

The handling of milk in the 43 Kansas counties included in the marketing area as proposed herein is in the current of, or burdens, obstructs or affects interstate commerce. Milk is received from producers located in the States of Colorado and Oklahoma. Such milk is commingled with milk received from producers whose farms are in Kansas and is used for route disposition throughout the marketing area. Bulk tank supplies of milk from plants located in the marketing area are sold to handlers regulated by the Greater Kansas City and Neosho Valley marketing orders as well as to unregulated handlers in the State of Texas. Dairy farmers in the marketing area are located in the same area where producers under the proposed expanded order ship milk directly from their farms through their cooperative association to handlers regulated in the Rio Grande Valley marketing area.

For the reasons set forth above it is concluded that the Southwest Kansas and Wichita, Kans., orders should be combined into a single order with a marketwide pool. The order should be called the Wichita, Kans., marketing order as proposed by the cooperative associations. The recommended order adopts most of the provisions of the present Wichita Order No. 73. Particular findings are generally limited to those matters where substantive changes have been made in the Wichita order provisions, where there were differences in views expressed at the hearing or where there is now substantial difference between the terms of the two orders.

To accomplish the merger effectively and equitably the assets in the custody of the market administrator in the administrative, marketing service and producer-settlement funds established under the present orders Nos. 73 and 74 should be combined when the merger of the two orders is effective. Liabilities of such funds under the individual orders should be paid from the newly combined funds and obligations due to such funds under the separate orders should be paid to the combined funds under the merged order. To distribute the funds under either or both orders and again accumulate the necessary reserve would entail unnecessary administrative expense with no advantage to either handlers or producers. Administrative efficiency and equity among handlers and producers can best be served by merging the funds of the two orders.

When the merger is effective order No. 74 should be revoked.

2. *Milk to be priced and pooled.* The sanitary requirements relative to the production, processing and sale of fluid milk are substantially the same throughout the proposed marketing area. Throughout the area fluid milk products sold under a Grade A label must be approved by health authorities who are governed by health ordinances and practices patterned after those prescribed by the U.S. Public Health Service Ordinance and Code. In addition, the health ordinance for the city of Wichita, Kans., requires that the skim milk and butterfat

used to produce cottage cheese must meet Grade A standards.

The extensive movement of milk both in the form of packaged and bulk fluid milk products between the present marketing areas and in the proposed expanded area demonstrates the comparability of sanitary standards throughout the proposed Wichita, Kans., marketing area. As pointed out previously handlers regulated by the present Wichita, Kans., order distribute about one-third of the fluid milk products in the present Southwest Kansas marketing area and approximately 70 percent in the counties proposed to be added to the marketing area. In addition, milk produced for one market moves directly from the farm to plants in the other market.

It is no longer necessary to provide that approval of the sanitary standards of agencies of the U.S. Government for milk to be used for fluid consumption in its institutions or bases located in the marketing area be mentioned because these standards and the standards of the U.S. Public Health Ordinance and Code are either the same or similar.

In view of the similarity of the health regulations and the free movement of milk, any dairy farmer whose milk is produced in compliance with the Grade A requirement of any duly constituted health authority should be eligibile to share in the marketwide pool if his milk is received at a plant having sufficient association with the market to qualify as a pool plant.

Provision is made for a definition of distributing plant, supply plant, route disposition and a slightly revised pool plant definition. These definitions provide for substantially the same performance standards as are now required under the present Wichita, Kans., order for participation in proceeds of the marketwide pool. While these definitions differ from the present Southwest Kansas order provisions, they are appropriate for the combined and expanded marketing area.

A distributing plant should be one having approval of an appropriate health authority and from which during the month there is route disposition in the marketing area.

A supply plant should be one having appropriate health authority approval and from which Grade A fluid milk products eligible for distribution in the marketing area are moved to and physically received at a distributing plant.

Route disposition should be the delivery of fluid milk products (defined in the findings under the heading of classification and allocation) from a distributing plant to retail and wholesale outlets. Such deliveries should include specifically any delivery by a vendor, from a plant store or through vending machines. Deliveries to any milk processing plant or bulk deliveries to a commercial food processing establishment for use in food products prepared for consumption off the premises should be specifically excluded from this definition.

The present pool plant performance standards of the Wichita order were proposed with minor changes for the combined marketing area. These performance standards should be modified to provide that a distributing plant should dispose through route disposition fluid milk products in an amount equal to 25 percent during the months of March through July, and 35 percent during all other months, of its receipts of Grade A milk from dairy farmers, supply plants and cooperative associations in their capacity as a handler of bulk tank milk and such plant should have route disposition of 10 percent or more of such receipts in the marketing area.

The essential difference between the present and recommended order is that performance standards for pool distributing plants would be based on the percent of fluid milk products disposed of through route disposition rather than the percent disposed of as Class I milk. No plant at present or in recent years would have failed to qualify as a pool distributing plant on the basis of the recommended performance standards. Performance standards for pool distributing plants customarily require that a substantial portion of receipts be disposed of on routes, either in or out of the marketing area, in order to distinguish distributing plants from those that must qualify as supply plants. Present standards would permit the pooling of a plant as a distributing plant even though such plant's major business activity is supplying plants in other markets. In the interest of orderly marketing and under the current market conditions only plants primarily engaged in route disposition of fluid milk products should be qualified as pool distributing plants. To distinguish further between distributing and supply plants, a pool supply plant should be required to deliver to pool distributing plants 50 percent or more of the Grade A milk received by such plant from dairy farmers and from cooperative associations in their capacity as handlers of bulk tank milk. Automatic pooling status for such a plant would be established during December through July if such plant qualified as a pool supply plant in each of the preceding months of August through November unless the plant operator requests the market administrator in writing that such plant not be a pool plant. It was proposed and is herein recommended that if such a plant becomes a nonpool plant such status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of required shipments.

It should be further provided that any plant operated by a cooperative association and 60 percent or more of the milk delivered during the current month by producers who are members of such association is delivered directly or is transferred by the association to other handlers' pool distributing or supply plants shall be a pool plant. However, if such a plant qualifies as a pool plant under another order issued pursuant to the Act by delivering 50 percent or more of its Grade A receipts from dairy farmers to plants which qualified as pool plants under such other order, it should not be a pool plant under this order. The conditional suspension order issued March 12, 1963 (28 F.R. 2354), with respect to this provision will no longer be needed and should be revoked.

The pool plant performance standards described herein are, with the stated modifications, those of the present Wichita order. These standards will insure that milk plants whose receipts are included in the marketwide pool of the merged and expanded order will be substantially associated with the Wichita market. The use of these standards serves to prevent dissipation of the proceeds of the higher Class I milk price by the inclusion in the marketwide pool of quanities of milk acquired by handlers primarily for manufacturing purposes. Such dissipated proceeds could accrue to the benefit of producers supplying milk to handlers who do not regularly or dependably furnish the fluid milk needs of consumers in the marketing area. Unless adequate standards of marketing performance are provided to determine which milk and plants will participate fully in the market pool funds, the uniform price of the market could be depressed to the point that it would not serve its function of attracting an adequate supply of milk for the fluid needs of the market without a Class I price higher than otherwise would be necessary.

Milk plants with less than 300 pounds of route disposition in the Southwest Kansas area are now exempt from regulation under that order. Such a provision was not proposed for and is not included in the revised Wichita order. The performance standards required of plants for in-area and total route disposition previously discussed are appropriate for the merged and enlarged area. The provisions for partial regulation of nonpool plants disposing of milk in the marketing area are appropriate for any plant failing to meet these standards.

Presently, all producer milk disposed of both within and outside the marketing area is fully regulated and priced under the separate orders. It is necessary that this arrangement be continued under the expanded Wichita, Kans., order; otherwise, the effect of the order would be nullified and the orderly marketing processes would be jeopardized.

If only a handler's "in-area" sales were subject to classification, pricing, and pooling, a pool handler with Class I milk sales both inside and outside the marketing area could assign any value he chose to his outside sales. Thus, such a handler could reduce his average cost of all of his Class I milk below that of other pool handlers having all or substantially all of their Class I milk sales within the marketing area. Unless all milk of such a handler is fully regulated he 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 regulation. If a pool handler were free to value a portion of his milk at any price he chose it would be impossible to enforce uniform prices

to all fully regulated handlers or a uniform basis of payment to producers who supply the market. It is essential, therefore, that the expanded marketing order recommended herein continue to 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 defined marketing area from plants not precise way to treat such unregulated under any federal order. There is no 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. 9213) supporting amendments to several orders including the Southwest Kansas and Wichita, Kans., orders.

The operator of a partially regulated plant should be afforded the options of:

1. Paying an amount equal to the difference between the Class I milk price and the uniform price of producer milk with respect to all Class I milk sales made in the marketing area;

2. Purchasing at the Class I milk 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. This amount, of course, equals 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.

The present Wichita, Kans., order has such a provision at this time. It is appropriate that it be applied to the combined and extended marketing area, although there are no known plants that would be partially regulated at this time.

The present provisions of the Wichita, Kans., order relating to a plant which simultaneously meets the pooling requirements of the order and also the pooling requirements of another Federal milk order should be modified as provided herein for the expanded Wichita, Kans., order to provide that a distributing plant which is a pool plant retain such status until the third month in which it has greater route distribution in the other marketing area if the other order has complementary provisions. The present Wichita, Kans., order now provides that if a handler disposes from a distributing plant a greater portion of Class I milk in another order marketing area than in this marketing area and his plant is pooled in the other market, the handler shall be exempt from all but reporting provisions of this order. If such a plant is not pooled under the other order, however, it would be fully regulated by the Wichita, Kans., order. The present Wichita, Kans., order does not distinguish between distributing plants and supply plants in this respect. The Southwest Kansas order merely provides a "majority rule" with respect to sales in two or more marketing areas.

The operator of a plant at Concordia, Kans., in Cloud County expressed concern with respect to the possible month-to-month shifting of the regulation of his distributing plant from one order to another. He also contended that more orderly marketing would result if, as the cooperative associations proposed, the pooling of distributing plants having sales in two or more markets would not shift between orders immediately upon a change in the amount of sales from the plant into one or the other of the markets involved. Such a provision is appropriate for the combined and enlarged marketing area and should be included. Under it, a distributing plant would continue to be pooled under the Wichita, Kans., order until the third consecutive month in which greater Class I milk distribution is made from the plant in another marketing area than is made in the Wichita, Kans., marketing area. If the other order does not have a complementary pooling provision but requires that the plant be pooled under such other order, the plant should be exempt from all but the reporting provisions of the Wichita, Kans., order. The 3-month lag will provide a handler sufficient time to make adjustments in his operations if he so desires in view of an impending shift in regulation. The continuous pooling of such a plant in the same market will result in more stability in producer prices in the two markets involved than likely would result otherwise with month-to-month shifts between orders.

The order also should exempt from full regulation a distributing plant doing a greater proportion of its total Class I milk business in the Wichita, Kans., marketing area than in another order marketing area but which is subject nevertheless to full regulation under the other order. This latter provision will complement other Federal orders which have similar "lock-in" provisions.

The order should exempt also a supply plant which meets the pooling requirements under both this and another order if greater qualifying shipments from such plants are made during the month to plants regulated under another order than are made to plants regulated under the Wichita, Kans., order. Such exemption should not apply during the months of December through July, however, if the operator of such plant chooses to retain automatic pooling status under the Wichita, Kans., order during these months.

The producer-handler definition should be similar to that provided in the present orders but should permit such a handler to supplement his own production with milk purchased from pool plants of other handlers. The definition should further specify that the maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of the producer-handler. These provisions permit the producer-handler to supplement his own production with milk priced and pooled under the order and at the same time make it clear that the producer-handler operation is the sole enterprise of such person. The proponent cooperative association also requested that a producer-handler be able to purchase supplies of bulk milk from a cooperative association in its capacity as a handler of bulk tank milk and packaged fluid milk products from other Federal order plants. The purchase of packaged fluid milk products from other order plants should be permitted. Such milk is priced and pooled under another order. If it is necessary for a producer-handler to purchase bulk supplies of milk from a cooperative association in addition to milk from pool plants of other handlers, such a producer-handler can do so by obtaining such bulk supplies in transfers from plants operated by cooperative associations. This puts the cooperative associations and proprietary handlers on the same basis in providing bulk milk supplies to a producer-handler. The provisions of the order now assure Class I price for such milk if transferred from a pool plant to the plant of a producer-handler. Accordingly, the proposal that a producer-handler be able to purchase bulk tank milk delivered directly from farms through a cooperative association is denied.

3. *Classification and allocation.* The expanded Wichita, Kans., order should provide for three classes. Class I milk should be that primarily disposed of on routes as fluid milk products or held in packaged form in inventory. Class II milk should be skim milk and butterfat used to produce cottage cheese or added to cottage cheese curd and Class III milk should be the skim milk and butterfat used to produce manufactured products plus shrinkage and items dumped or disposed of to commercial food establishments.

The present Southwest Kansas order does not classify skim milk and butterfat used to produce cottage cheese separately from other manufactured dairy products. The present Wichita order, however, is a three-class market and classifies skim milk and butter fat used to produce cottage cheese as Class II milk. This classification provision has been in effect since 1958, although stated differently until amended effective January 1, 1966. The city of Wichita requires that cottage cheese be made from Grade A milk. Wichita is the principal population center of both the present and proposed Wichita marketing areas. All pool plans under the present Wichita order that produce cottage cheese are approved for sales in the Wichita area.

Wichita handlers distribute cottage cheese throughout the expanded marketing area where cottage cheese is not required to be made from Grade A milk.

A separate class should be provided in the order for the merged and expanded marketing area to include milk used to produce cottage cheese, as now provided in the Wichita order. Handlers use fresh fluid skim milk as the principal raw material for production of cottage cheese curd. The level of the Class II price is discussed in detail under the issue of class prices.

With this classification, other source milk should be defined essentially as now provided in the Wichita order. Other source milk should include all manufactured products, except cottage cheese and cottage cheese curd, from any source, including those from the plant's own manufacturing operation, which are processed or converted into another product during the month. It should also include all skim milk and butterfat contained in fluid milk products, except producer milk, and receipts from other pool plants. Cottage cheese and cottage cheese curd should be excluded from other source milk since such products are not interchangeable with producer milk in the production of Class III milk items. If such items were included as other source milk the effect would be to "upgrade" producer milk through the allocation procedure and "downgrade" such items to Class III milk even though such items cannot be used to produce another Class III item.

Concentrated milk disposed of for fluid consumption other than in hermetically sealed metal or glass containers should be specifically included as a fluid milk product. While this item is not produced or distributed in the marketing area at the present time, cooperative associations requested its inclusion as a fluid milk product on the basis that future developments may bring this product into the market. Federal milk orders generally include concentrated milk as a fluid milk product.

Sour cream disposed of under a Grade A label should continue to be classified as Class I. Sour cream is required to be made from Grade A milk and the finished product must be labeled Grade A. It was proposed that sour cream to which cheese or any food substance other than a milk product has been added in an amount equal to 3 percent or more by weight of the finished product be classified as Class III. Such products in the State of Kansas cannot be labeled Grade A. Products that are required to be made from Grade A milk should be classified as Class I milk. Since sour cream products such as "dips" may not be labeled Grade A, it is preferable to make the distinction for the purpose of classification between sour cream and sour cream products on the basis of Grade A requirements rather than on the basis of the percent of foreign substance used.

Sterilized products packaged in hermetically sealed containers should be classified as Class III. Such products generally are not made from Grade A products and are distributed from central locations over wide areas of the country.

The provision for Class II classification of dumped products should be extended to include the butterfat as well as the skim milk in such products, and the skim milk and butterfat in cottage cheese dumped should also be classified as Class III under the same provision. It is difficult and impractical to salvage butterfat from such products as chocolate milk and cottage cheese. When skim milk and butterfat must be dumped or disposed of for livestock feed it should be classified as Class III milk. The value of skim milk and butterfat is such that handlers will salvage both whenever practical. Fluid milk products disposed of in bulk form to any commercial food processing establishment and used in food products prepared for consumption off the premises should also be classified as Class III. This provision is similar to that of the present Wichita order which classifies milk used for baking and candy making as Class III and merely extends this classification to use in comparable food products.

The present Wichita order provides that fluid milk products which are fortified with nonfat milk solids shall be Class I milk in an amount equal only to the weight of an equal volume of an unfortified product of the same butterfat content. Approximately the same result is provided in the Southwest Kansas order which does not require accounting for the milk equivalent of nonfat dry milk solids. The Wichita provision should be continued in the order for the expanded area. The addition of nonfat solids used in fortification cannot be considered as displacing producer milk in Class I milk except to the extent that the volume of the product is increased. The addition of such solids to make a more desirable product may in fact increase the sales of producer milk—in any event any displacement of producer milk for Class I milk use is limited to the resulting minor increase in volume.

The proposed Wichita transfer provisions are generally the same as in the present orders and are generally adopted as proposed by the cooperative associations. It should be noted, however, that the provision to classify as Class I milk, skim milk and butterfat transferred or diverted to a nonpool plant located more than 250 miles from the nearest location basing point differs somewhat from the present two orders. Cooperative associations in this market transfer or divert to nonpool plants nearly all the milk that must be so handled. The 250 mile limit from these points encompasses all the manufacturing facilities now available under either order, and makes them equally available for surplus disposal of all handlers.

Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. Fluid milk products on hand at the end of the month in bulk form should continue to be classified as Class III.

Classification of packaged inventories of fluid milk products as Class I milk, rather than as Class III milk, will diminish the monetary importance of their exact location in the distribution system of the handler as of the end of the accounting period. Presently, administrative feasibility has generally required that inventories be restricted to those physically located in the plant where processed. Packaged milk moved to distribution points is classified as Class I milk even though it may be on hand at the distribution point at the end of the month. Handlers have thus been paying the Class I milk price of one month for products disposed of from the processing plant, but held elsewhere in their distribution systems, and that of the following month for inventories of packaged milk held in their processing plants. Under the system herein recommended, the extent of this difference will be substantially reduced or eliminated.

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 III 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.

To accommodate this change in the classification of fluid milk products in packaged form in inventory, 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.

The shrinkage allowance on milk disposed of in bulk tank lots from pool plants to other milk plants should be modified. Presently, under both orders the shrinkage allowance in such instances is one-half of 1 percent when milk is so disposed of to other pool plants, but 2 percent shrinkage is allowable on bulk tank lots transferred from a pool plant to other milk plants not a pool plant. It is concluded that only 0.5 percent shrinkage should be allowed regardless of whether the plant receiving the milk is a pool or nonpool plant. There

is no essential difference in plant operations due to the pool status of the transferee plant.

The order should provide that when milk is diverted to a nonpool plant in bulk tanks and the receiving plant does not accept the farm weights, a shrinkage allowance of 0.5 percent should apply. The Wichita order presently makes no provision for a shrinkage allowance on diverted milk. When milk moved from the farm to the plant in cans, it was weighed at the plant of receipt. The plant operator was obligated for the pounds of milk he received in his plant. Any loss between the farm and the plant scale was borne by the producer. The only shrinkage allowance was for loss incurred in the processing operation. When bulk tanks came into use and the milk was measured on the farm, it became apparent that some loss occurred between farm and plant. As a result the 2 percent shrinkage allowance generally permitted was divided between the receiving and processing operations. While no shrinkage is incurred in the processing operation by the handler who diverts milk to a manufacturing plant, the farm to plant shrinkage is the same as on movements to pool plants. Accordingly, the handler should be permitted a shrinkage allowance of up to 0.5 percent on milk diverted in bulk tanks to be classified as Class III milk.

Cooperative association proponents proposed that pool plant operators should submit a separate report for each pool plant. The proposal further provided that Class I milk classification and shrinkage should be based upon the operation of each individual plant. Separate reports for each pool plant will permit shrinkage to be computed separately for each such pool plant. This provision will preclude a handler operating two or more plants from offsetting shrinkage in one plant against overage in another.

If no milk is transferred between pool plants of the same handler, there is no way in which overage in one of such plants could be the cause of shrinkage in any of the remaining pool plants. Should milk be transferred between pool plants of the same handler the same care should be given to recording the weights and tests of milk so transferred as is given to transfers to pool plants of other handlers. The requirement that each plant must be separately accountable for shrinkage or overage will result in the multiple pool plant operator accounting to the pool on the same basis for shrinkage or overage as is now required of the operator of an individual plant. The present Wichita allocation provisions should be adopted with minor modifications to conform to the change in classification of packaged milk in inventory. Allocation should be performed separately at each pool plant unless the pool plant handler receives other source milk that is subject to pro rata assignment. Since shrinkage will have been computed separately for each plant such allocation will provide the handler with a separate computation of his obligations at each plant.

The market administrator should combine the reports of receipts and utilization of a multiple plant operator, for the purpose of allocation and computation of pool obligations when it is determined that receipts from an unregulated supply plant or from an other order plant require Class I milk classification. This procedure when integrated with the allocation provisions is designed to prevent a handler with more than one plant from discriminating against either his own producers or those supplying another market by importing milk not serving a bona fide need for Class I milk use.

4. *Class prices*—(a) *Class I price.* The merged order should provide for two Class I price zones. The Class I price for Zone I (Wichita area) should be the Minnesota - Wisconsin manufacturing milk price plus $1.60, subject to applicable supply-demand adjustments. Such price should not vary beyond stated limits from the Greater Kansas City order Class I price. The Zone II (Dodge City area) Class I price should be 5 cents higher than the Zone I price.

Class I prices under the Wichita and Southwest Kansas orders are now based on a basic formula price which is the average price per hundredweight for manufacturing grade milk in Minnesota and Wisconsin. To this price, as announced by the Department for the preceding month, is added a Class I differential of $1.57 in the case of the Wichita order and $1.65 for the Southwest Kansas order. Class I prices under both orders are subject to price adjustments reflecting changes in producer milk supplies and in Class I sales. The Wichita Class I price cannot vary beyond certain limits from the Class I price of the neighboring Greater Kansas City market. Similarly, the Southwest Kansas Class I price is tied to the Class I prices in the nearby Wichita and Texas Panhandle markets. Also, on the basis of emergency amendatory action, the Class I price in each market for the months of May and June 1966 cannot be less than the Class I price for the preceding month of April.

In 1964 and 1965, the Class I prices for the Wichita market averaged $4.75 and $4.85, respectively, for milk of 3.5 percent butterfat content. Comparable prices under the Southwest Kansas order were $4.79 in 1964 and $4.90 in 1965.[1] These prices for both markets reflect a temporary increase in the Class I price level for the period of November 1964 through February 1965 resulting from emergency price amendments to the orders.

The two cooperative associations advocating the order consolidation proposed that two pricing zones be established. The Class I price for the eastern zone would be the presently used basic formula prices plus $1.60 and the western zone price would be 10 cents higher. The associations proposed that the Wichita supply-demand adjustment computation be used under the merged order but with a revised seasonal pattern of the standard utilization percentages. In anticipation of certain changes in the Greater Kansas City order, they also proposed that for July through March the Zone I Class I price not be less than the Greater Kansas City Class I price plus 10 cents, and for the remaining months not less than the Greater Kansas City Class I price plus 20 cents. Also, the Zone I price could not exceed the Greater Kansas City Class I price by more than 50 cents in July through March, and 60 cents in April through June. Proponents suggested that the new Class I price formula be reviewed at a hearing within two years of its effective date.

A handler proposed that any supply-demand adjustor for the merged order reflect the changes in producer receipts and Class I sales under both the merged order and the Neosho Valley Federal order. Another handler proposal, predicated on the adoption of the Wichita order's supply-demand adjustor for the merged order, would modify the current rate of price adjustment in response to supply-demand changes. This proposal was not supported at the hearing, however, and no further consideration of it is given herein.

The zoning arrangement proposed by the cooperative associations should be adopted. The 22 counties in the proposed marketing area east of Trego, Ness, Hodgeman, Ford, and Clark Counties should be in Zone I. Zone II, for which a higher price would be applicable, should comprise the remaining 21 counties in the proposed marketing area. The specific counties in each zone are set forth under Issue No. 1.

The Class I price for Zone I should be the basic formula price for the preceding month, as now used under the separate orders, plus $1.60, subject to supply-demand adjustments and price limits described later. The Zone II Class I price should be five cents higher than the effective Zone I price. These Class I differentials represent a 3-cent increase for plants regulated by the present Wichita order and a 5-cent decrease for certain plants now regulated by the Southwest Kansas order with no change for the remaining plants regulated by that order. For 1964 and 1965 the average net effect of these changes on the total Class I milk under the two orders would have been an increase of 2.4 cents in the Class I differential. All plants to be newly regulated are located in Zone I for which the $1.60 Class I differential applies.

Setting the Zone II Class I price five cents higher than the Class I price for Zone I would maintain the general price alignment now existing between the Wichita and Southwest Kansas markets. Because of the effect of the supply-demand adjustors and price ties with other markets, the Wichita and Southwest Kansas Class I prices actually differed by only 4 cents in 1964 and 5 cents in 1965. In view of the supplies of producer milk available in the Southwest Kansas market, a Zone II price differen-

[1] Official notice is taken of the price announcements and statistical releases, issued by the market administrator for the Wichita and Southwest Kansas markets, which contain data for the months of October through December 1965 for such markets.

tial at the level proposed by producers does not appear necessary. There is no indication that the alignment of Class I prices of these two markets has been improper with respect to the competitive relationship of handlers involved.

The Class I prices under the merged order should be subject to adjustments based on relative changes in the quantity of producer milk received by handlers regulated under the order and the quantities of such milk assigned to Class I. The supply-demand computation used under the Wichita order, with certain modifications, should be adopted for this purpose. The present standard utilization percentages should be revised, without changing the annual average, to reflect the recent seasonal patterns of production and Class I use in the Wichita and Southwest Kansas markets. Also, such percentages should be based on the amount of producer milk assigned to Class I rather than on the gross Class I utilization of handlers. The standard utilization percentages now contained in the Wichita order and those adopted herein for the proposed merged order are set forth in the following table.

Pricing month	Standard utilization percentages			
	Present Wichita order		Proposed Wichita order	
	Minimum	Maximum	Minimum	Maximum
January	125	135	119	129
February	124	134	126	136
March	125	135	129	139
April	125	135	130	140
May	132	142	131	141
June	136	146	132	142
July	143	153	141	151
August	137	147	145	155
September	131	141	139	149
October	131	141	135	145
November	130	140	124	134
December	126	136	116	126

The average of the monthly midpoints of the proposed standard percentages is 135.6 percent, compared with the average percentages of 135.4 and 134.8 reflected in the standard utilization percentages now used in the Wichita and Southwest Kansas orders. This represents the actual average ratio of producer receipts to producer milk assigned to Class I for the Wichita and Southwest Kansas markets combined for the months of October 1963 through October 1965, the months used to compute monthly utilization percentages used in the supply-demand adjustments for the pricing months in 1964 and 1965.

The proposed standard percentages thus represent an annual level of utilization almost identical with that of the present Wichita order, adjusted seasonally to the pattern of the recent 2-year period.

The annual relationship of production to Class I utilization of producer milk for the combined markets was virtually the same for these 2 years. For 1964 and 1965, producer receipts averaged 135.9 percent and 135.3 percent, respectively, of Class I use. Also, the seasonal patterns of the monthly percentages were quite similar in both years. Such production and use data, therefore, represent a reasonable basis on which to establish standard utilization percentages for use under the merged order. The average of the percentages adopted is the same as that proposed by producers.

It is desirable that supply-demand adjustments be based on the amount of producer milk assigned to Class I. Presently, the gross Class I utilization of handlers is used. The latter utilization reflects the quantities of both producer milk and other source milk assigned to Class I. The demand for producer milk for Class I purposes is more accurately measured by basing price adjustments on the relative amounts of producer milk assigned to Class I.

Under current marketing practices, this change in the supply-demand adjustment computation would not result in price adjustments significantly different from those that would result if they were based on the gross Class I use. Relatively little other source milk imported by handlers in the two markets has been allocated to Class I. Thus, the Class I sales by such handlers represent for all practical purposes the actual sale of producer milk.

As described earlier, packaged Class I products in inventory are to be assigned to Class I. The revised method of computing the supply-demand adjustment makes unnecessary an adjustment of the Class I quantity used in the computation to compensate for this method of accounting for inventory.

Using the proposed standard percentages and producer milk assigned to Class I instead of gross Class I utilization, there would have been no supply-demand adjustments under the proposed merged order in any month had it been in effect in 1964 and 1965. This may be compared with the actual experience under the separate orders.

For this 2-year period the average effect of the supply-demand adjustments of the separate orders represented a reduction of slightly less than three-tenths cent per hundredweight of the combined Class I utilization of producer milk in the two markets. Monthly adjustments were somewhat greater under the Southwest Kansas order, due to the application of a more sensitive adjustor to smaller production and sales volume. Under this order, the average adjustment due to supply-demand was a reduction of 3.5 cents per hundredweight. Under the Wichita order the average effect was an increase of four-tenths cent per hundredweight.

The average effect of the proposed supply-demand computation thus would not represent a significant departure from the average effect of the supply-demand adjustors under the separate orders. The new standard utilization percentages, however, would minimize monthly adjustments resulting from an improper reflection in the supply-demand computation of the "normal" seasonal pattern of the production-sales relationship.

The two cooperative associations proposed that the standard utilization percentages which are now applicable to the pricing month of January, for instance, be applicable to the month of March, with a corresponding 2-month shift of the other percentages. The seasonal pattern of the supply-sales relationship for the two markets combined has not shifted uniformly as this proposal would suggest. This may be noted from a comparison of the standard utilization percentages for the present and proposed Wichita orders in the table above. The percentages adopted herein more nearly reflect what apparently is a relatively "normal" supply-demand relationship for the two markets combined. For this reason the associations' proposed standard percentages should not be adopted.

The producer receipts and Class I sales data for the Neosho Valley market should not be included in the supply-demand computation for the merged order. A handler advocated the inclusion of such data to minimize any instability in the supply-demand relationship which might result from the shifting of producers between the consolidated market and the Neosho Valley market. The handler cited the shifting of producers between markets by a cooperative association which has members in all three of the southern Kansas markets.

Under present conditions it does not appear necessary to compute the supply-demand adjustment for the merged order in this manner. Wide, short-term fluctuations in the relationship between producer receipts and Class I sales are not a current problem in the Wichita and Southwest Kansas markets. Moreover, the consolidation of the two orders would be expected to lessen the possibility of this problem arising in the future. With greater volumes of producer receipts and Class I sales involved under the merged order, changes in such volumes would tend to have a lesser impact upon the Class I price. There is no evidence that there has been any substantial shifting of sales between the Neosho Valley market and the proposed Wichita market. The need for consolidating the supplies and sales of markets for supply-demand adjustment purposes arises when both supplies and sales (and frequently pool plants) shift back and forth between such markets. There is no indication that such is the case in these markets.

The current limits within which the present Wichita Class I price can vary from the Greater Kansas City Class I price should be applicable to the proposed Zone I Class I price. Under this arrangement the Zone I price in August through March could not be less than the Greater Kansas City Class I price, and for the remaining months not less than the Greater Kansas City Class I price plus 10 cents. Also, the Zone I price could not exceed the Greater Kansas City Class I price by more than 50 cents in August through March, and 60 cents in April through July.

The cooperative associations proposed that the minimum limit be set 10 cents higher for all months. In addition, they proposed that the two groupings of months for which different limitations

apply be changed so that July no longer would be included with the months of April, May, and June. These proposals were made on the assumption that certain changes in the Greater Kansas City order would be made on the basis of a hearing held for that market in November 1965.

A concurrent decision based on the Kansas City hearing does not adopt the changes just mentioned. Thus, the price limitations now used under the Wichita order would continue to be appropriate under the merged order.

The Class I prices adopted herein, in conjunction with the other adopted pricing factors, should continue under normal conditions to attract the milk supplies necessary to meet the fluid needs of handlers who would be regulated under the merged order. Had these and the other class prices proposed herein been in effect through 1964 and 1965, the combined returns to all producers supplying the consolidated market would have been within one-half cent per hundredweight of the actual combined returns received during these years by producers under the two separate orders. The actual average return to producers was $4.512 per hundredweight, while the proposed pricing would have returned $4.507.

In this 2-year period 73.5 percent of the producer milk of the combined markets was used in Class I. This is substantially the same average level of supply adopted as the standard for supply-demand adjustment of the Class I price (the equivalent of 73 percent of producer milk in Class I). The pricing mechanism of the order therefore must be such as would have produced returns to producers comparable to those received in 1964 and 1965 if they are to be expected to attract an adequate supply of milk under circumstances comparable to those prevailing in these years.

The prices provided herein for Class II milk used to produce cottage cheese are approximately 65 cents per hundredweight less than those effective for 1964 and 1965 in the larger Wichita market, but about 15 cents more than for the Southwest Kansas market. The price for Class II milk under the Wichita order had been 80 cents per hundredweight more than the Class III price for a number of years. While requirements for production of cottage cheese were never included in the supply-demand adjustment norms of adequate supply for the market, the increased price for cottage cheese produced income which contributed to attracting an adequate supply of milk for Class I uses. Marketing conditions changed so that it was no longer possible to maintain the price at this level without loss of cottage cheese markets for Wichita handlers and consequent loss of income to producers (decision issued Dec. 20, 1965; 30 F.R. 16008). This source of income is consequently no longer available to aid in attracting an adequate supply of milk for Class I uses. It is therefore necessary to make certain adjustments in the Class I prices to produce the income necessary to attract supplies of milk adequate for Class I needs and necessary reserves. The exact nature and amount of such adjustments have been set forth in detail in the preceding findings.

The attached order does not reflect the recent temporary price amendments to the Wichita and Southwest Kansas orders. These provide that the Class I prices for May and June 1966 shall not be less than the preceding April price. Such amendments were based on marketing conditions in the individual markets. No consideration was given to the propriety of similar pricing under a consolidation of the two orders. Therefore, the merged order does not provide for this temporary price floor. Moreover, the probable date by which this proposed order could be made effective is such as to make this a moot problem.

The merged order should not provide that the Class I price expire at some future date as suggested by producers. The need for a review of the Class I pricing within 1 or 2 years because of marketing changes resulting from the order consolidation is not likely. The Class I pricing adopted herein is quite similar to that which exists currently under the two orders. If new marketing conditions arise later which appear to warrant some change in the order provisions, a review of the Class I pricing can be requested at that time.

(b) *Class II price.* The Class II price under the merged order should be the Class III price plus 15 cents. As described later, the Class III price would be the average price for manufacturing grade milk in Minnesota and Wisconsin, as limited by certain factors. The Class II price would apply only to skim milk and butterfat used in the production of cottage cheese.

Under the Southwest Kansas order milk used in cottage cheese is priced at the Class II, or manufacturing class, price. Such price, which is based on the average U.S. manufacturing price, averaged $3.22 in 1965. The Wichita order provides for a separate manufacturing class for milk used in cottage cheese. Until January 1, 1966, the price for this Class II milk was the Wichita Class III price plus 80 cents. In 1965 this Class II price, which also was based on the average U.S. manufacturing price, averaged $4.02.

On the basis of this hearing the Wichita Class II price was reduced from 80 cents to 15 cents over the Class III price, effective January 1, 1966. This temporary action was taken pending a decision on all the issues of the hearing. The reasons for the change are set forth in the decision on proposed amendments to the Wichita order issued December 20, 1965 (30 F.R. 16008).

No decision was made at that time as to what the Class II price should be under the merged order.

If skim milk from producer milk is priced at less than the cost of alternative supplies of cottage cheese or dairy products for making cottage cheese, producers do not receive the full market value for their milk. However, if milk used in cottage cheese were priced higher than the alternative product cost, use of skim milk from producer milk might be discouraged.

Handlers in the Wichita and Southwest Kansas markets rely substantially, if not almost entirely, on local Grade A supplies of producer milk for cottage cheese production. Undoubtedly, the major influence to do so is the fact that the city of Wichita requires that cottage cheese sold there be made from Grade A milk. Wichita is the predominant population center in the two markets and thus represents the principal outlet for cottage cheese.

Under the proposed order provisions, the average value for skim milk in Class II would have been 85 cents per hundredweight in 1965. This represents what handlers would have had to pay under the merged order for producer skim milk used in the production of cottage cheese. Assuming a yield of 14 pounds of cottage cheese curd per hundredweight of skim milk, the ingredient cost of curd would have been 6 cents per pound.

Handlers choosing not to use producer milk in making cottage cheese probably would use imported dry cottage cheese curd or nonfat dry milk. Manufacturing grade milk could be used for this purpose. However, local supplies of such milk are decreasing and thus cannot be considered as a reliable source of milk. Moreover, cottage cheese made from such milk cannot be sold in Wichita.

A primary source for cottage cheese curd would be a large manufacturing plant at Springfield, Mo. The price quoted for dry curd f.o.b. Springfield was 12.75 cents per pound. An additional 1 cent per pound was quoted for hauling the curd to the Wichita area. Under the proposed pricing, the cost of using producer skim milk would have been well under the quoted price for dry curd f.o.b. Wichita.

Nonfat dry milk may be purchased by handlers and reconstituted into skim milk for use in making cottage cheese. The price per pound of spray process nonfat dry milk in the Chicago area averaged 14.27 cents in 1965.[2] With an approximate yield of 9 pounds of nonfat dry milk per hundredweight of skim milk, the cost of nonfat milk solids is about $1.28 per hundredweight of skim equivalent. This is substantially in excess of the cost of nonfat milk solids derived from producer milk under the proposed pricing scheme.

Local producers thus represent the cheapest source of cottage cheese milk for handlers who would be regulated under the merged order. The 15-cent differential above the Class III price, as proposed by producers, represents a reasonable return to producers for supplying Grade A milk for cottage cheese production.

There is no indication that the proposed Class II price would cause handlers in the consolidated market to be at a

[2] Official notice is taken of the nonfat dry milk prices for November and December 1965 as stated in "Federal Milk Order Market Statistics" issued in February 1966 by the U.S. Department of Agriculture.

competitive disadvantage with handlers in other markets with respect to cottage cheese sales. Several major handlers supported the Class II price adopted herein, which would indicate that the price apparently would not adversely affect their sales of cottage cheese.

In 1965 this Class II price would have averaged $3.37 per hundredweight on a 3.5 percent butterfat basis. With this price the cost under the order for milk used in cottage cheese would have been 65 cents per hundredweight less for Wichita handlers and 15 cents per hundredweight more for Southwest Kansas handlers than was actually incurred under the separate orders. Such cost changes reflect not only the proposed change in the differential between the Class II and Class III prices, but the proposed change in the matter of computing the Class III price.

(c) *Class III price.* The Class III price should be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the U.S. Department of Agriculture, adjusted to a 3.5 percent butterfat test. Such class price should not exceed a butter-powder formula price.

The surplus price (Class III) under the Wichita order is the higher of the average U.S. manufacturing price or the average of the prices paid by four local milk manufacturing plants. The former price has been the effective Class III price for some years past. The surplus price (Class II) under the Southwest Kansas order is the average U.S. manufacturing price. In 1965 the surplus prices averaged $3.22 under both orders.

The two cooperative associations proposed that the Class III price under the merged order be the Minnesota-Wisconsin manufacturing price. They also proposed that for the months of January through August handlers receive a 15-cent credit for producer milk used in the production of butter and nonfat dry milk. The associations suggested at the hearing that the average of the local manufacturing plant prices be used as an alternative to the Minnesota-Wisconsin price, with the higher of the two prices being the effective Class III price.

The price for manufacturing milk should be at a level which will provide the highest possible returns to producers in the market while at the same time encouraging the orderly marketing of such milk. A Class III price based on the average Minnesota-Wisconsin manufacturing milk price, not to exceed a limit related to butter and nonfat dry milk values, should adequately meet these pricing objectives. The desirability of using a competitive pay price is based on the premise that in the highly competitive dairy industry average prices which are paid in areas where there is substantial competition for manufacturing milk provide as good a measure of its value as can be obtained. The Minnesota-Wisconsin price series is representative of prices paid to farmers for about one-half of the manufacturing grade milk sold in the United States. In Minnesota about 84 percent of the milk sold off farms is of manufacturing grade and in Wisconsin, about 58 percent.[3] There are many plants in these States which are competing for such milk supplies. This price series reflects a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. Further, it reflects the supply and demand of manufactured dairy products within a highly coordinated marketing system which is national in scale. Milk products which are manufactured by handlers in the Wichita and Southwest Kansas markets compete within this system.

The Minnesota-Wisconsin price series is presently used under the order as the basic formula for establishing the price for Class I milk. Official notice is taken of the decision on proposed amendments to various orders issued by the Assistant Secretary on July 23, 1962 (27 F.R. 7437), concerning the adoption of this price series as the basic formula price for the Wichita and Southwest Kansas orders. This decision describes the manner in which the price series is obtained.

The proposed 15-cent credit for milk used in butter and nonfat dry milk should not be adopted. Instead, the Class III price should be limited to a butter-nonfat dry milk formula price. The formula, as incorporated in the attached order, would be computed by first multiplying the average price per pound of Grade AA (93-score) butter at Chicago by 4.2. To this value there would be added an amount computed by multiplying the average price per pound of spray process nonfat dry milk in the Chicago area by 8.2. Then, 48 cents would be subtracted from this total. This formula was recently incorporated in the nearby Greater Kansas City order for the same purpose.

Cooperative associations in the combined market assume the responsibility of disposing of milk not needed by handlers for fluid and cottage cheese uses. Some of the milk is manufactured into butter and powder, particularly during the flush production months. Such manufactured products are generally considered to be the lowest-return manufacturing uses for milk. Because of this it is desirable that the Class III price under the merged order not exceed a price level based on the market values of butter and nonfat dry milk.

The use of a butter-powder price for setting a ceiling on the Class III price would insure that the Class III price will continue to reflect the product values of butter and powder in the event of an undue divergence in the relationship between such values and the Minnesota-Wisconsin prices. Recognition should be given to the possibility that a particular segment of the manufactured milk industry may be unduly influenced occasionally by certain supply-demand conditions not affecting the remainder of the industry. Such conditions may not be reflected sufficiently in the Minnesota-Wisconsin price series. A comparable price ceiling is used in a number of Federal order markets in connection with the use of the Minnesota-Wisconsin price for pricing milk in manufacturing uses similar to the proposed Class III uses.

Under the pricing scheme proposed herein, the Class III price would have averaged $3.17 in 1964, or 4 cents higher than the actual surplus milk prices under the two orders that year. The proposed 1965 Class III price of $3.22 would have been the same as actually existed for the two markets. For these 2 years the Minnesota-Wisconsin price would have been limited by the proposed tie to the butter-powder values. Such limits would have averaged 1 cent in 1964 and 5 cents in 1965.

The local manufacturing plant pay prices should not be incorporated as a part of the Class III pricing scheme under the merged order. For the reasons stated above, the pricing scheme proposed herein should result in the appropriate Class III price under the order.

(d) *Butterfat differentials.* The handler butterfat differential for Class I milk should be the average price for Grade A butter at Chicago, as reported for the preceding month, times 0.120. The butterfat differentials for Class II and Class III milk should be the Chicago butter price for the current month times 0.115. The producer butterfat differential should be the weighted average of the handler butterfat differentials for the three classes. Such differentials should result in a reasonable allocation of value to the skim milk and butterfat components of milk being priced under the merged order.

The handler and producer butterfat differentials under the Wichita order differ from this arrangement only in that the factor used in computing the Class II differential is 0.120. Under the Southwest Kansas order the factors used in computing the Class I and Class II differentials are 0.125 and 0.115, respectively. The producer butterfat differential for the Southwest Kansas order is computed by multiplying the Chicago Grade A butter price by 0.120.

Producers proposed that the factor of 0.115 be used in determining the handler differentials for all three classes. They contended that lowering the differentials now applicable to the higher valued products would induce handlers to use more butterfat in such products. It was maintained that this would result in a better balance between the amount of butterfat in producer milk and the amount used in fluid milk products. It was not clear from the testimony whether producers expected that the adoption of their proposal would increase materially returns to producers.

This proposal should be adopted only insofar as the Class II and Class III differentials are concerned. For Class I, the factor 0.120 should be used.

Under the proposal, no purpose would be served by encouraging the greater use of butterfat in fluid milk products. The

[3] Official notice is taken of the "Supplement for 1963–64 to Dairy Statistics through 1960," Statistical Bulletin No. 303, Economic Research Service, USDA, June 1965.

value of butterfat used in Class I would be the same as the value of butterfat used in manufactured products. Thus, it would make little difference as to the class of products in which butterfat is utilized. The returns to producers from the butterfat would be the same. There was no evidence that butterfat not needed for Class I purposes cannot be disposed of at the butterfat values now established under the two orders for the surplus classes of milk.

If, nevertheless, the producers' proposal were to be adopted, this would result in an inappropriate increase in the value of skim milk used in Class I products. The butterfat test of Class I milk in the two markets is less than 3.5 percent, the test for which the Class I price is announced. Thus, a decrease in the value of the butterfat component of milk increases the value of the skim milk component, assuming no change in the total price. There is no justification for an increase in skim milk values. In fact, certain handlers opposed any such increase because of competition for sales of low-fat Class I products with handlers in other markets where the higher butterfat differential is used.

If producer returns could be increased by lowering the Class I butterfat differential, while simultaneously adjusting skim milk values to maintain their present level, it would be desirable, of course, to change the butterfat differential. Whether producer returns would be increased would depend upon whether the butterfat content of Class I products would be increased proportionately more than the decrease in the butterfat differential. If a 5-percent decrease in the butterfat differential would result in a 10-percent increase in the butterfat content of such products, for example, assuming that the Class I butterfat value was higher than the Class III butterfat value, an increase in producer returns would result. There are a number of research studies which reveal information about the price elasticity of demand for dairy products.[4] None of these indicates that a price decrease of a given percentage will result in a consumption increase of a greater percentage. Therefore, it does not appear that producers' incomes could be increased by reducing the Class I butterfat differential except only as returns are increased from an increase in skim milk values if that were allowed.

5. *Location adjustments to the Class I and producer prices.* Location adjustment provisions similar to those of the present Wichita order should be adopted for the merged order. Because of the consolidation and expansion of the Wichita and Southwest Kansas marketing areas, however, several basing points should be used.

Under the Wichita order no location differential applies at plants located less than 70 miles from the courthouse in Wichita. For plants 70 to 80 miles from such point, a location differential of 12 cents per hundredweight applies, and for greater distances an additional adjustment of 1.5 cents for each additional 10 miles. Under the Southwest Kansas order no adjustment applies at plants located less than 100 miles from the Dodge City Courthouse. For the 100–110-mile zone the applicable adjustment is 7.5 cents, and for greater distances an additional adjustment of 1.5 cents for each additional 10 miles applies.

There is no reason to depart from the use of the present Wichita rates or the zone arrangement. Enlargement of the marketing area and the use of zone prices at points within the area make desirable the designation of the following basing points: Wichita, Pratt, Garden City, and Hays, all in Kansas. Use of these points will adjust prices at plants with reference to the marketing area on the basis of distance from cities at which there are area Class I distributing plants. The cooperative associations proposed that Dodge City and McPherson also be basing points. The use of Garden City and Pratt would make the use of Dodge City as a basing point inconsequential. The use of Wichita and Hays would make the use of McPherson as a basing point inappropriate. Measuring distances from Wichita and Hays to plants located to the north and east of the present Wichita marketing area will better maintain the present alignment of prices at such plants with those of Wichita handlers. Thus, Dodge City and McPherson are not incorporated as basing points in the proposed order provisions.

For the purposes of location adjustment milk diverted to nonpool plants should be priced at the location of the pool plant from which diverted. Both of the present orders so provide.

Cooperative associations agreed with this provision if the nonpool plant was located in the marketing area, but proposed that such diverted milk be priced at the location of the nonpool plant if such plant was located outside the marketing area. The proposal was apparently made as a result of some unusual circumstances regarding the diversion of milk to distant plants.

Cooperatives own and operate the primary manufacturing plants where excess supplies of milk are processed. Normally and historically milk in excess of the market's needs is processed at these facilities located in the marketing area. These plants are located in Zone I of the marketing area. One association diverts to its plant in Zone I the milk of producers located in Zone II who normally supply pool plants in that area. Such producers incur hauling costs to the nonpool plant equal to or in excess of those incurred in delivery to pool plants. Thus the blend price should not be reduced in this situation. The continued pricing of milk diverted to nonpool plants at the pool plant from which diverted will best serve the needs of the market under present circumstances.

6. *Take out-pay back plan of distributing returns to producers.* Twenty-cents per hundredweight on producer milk during each of the months of April through June should be set aside for payment to producers during the months of September through November.

For a number of years the present Wichita order provided for a 12-month base-excess plan. The base forming months were August through November. This plan was terminated effective June 1, 1961. The Southwest Kansas order had a take out-pay back plan for several years. The months of April through June were the months of "take-out" and August through November were the months of "pay-back". This plan was terminated April 1, 1962.

Termination of these plans occurred because they overstimulated milk production during the months of August through November with the consequence that total production during this period tended to be greater than necessary to supply these markets' fluid needs.

During the past 2 years (1964–65), however, a seasonal production pattern, contrary to the market's needs for fluid milk products, has occurred. For example, the effect of the base plan in the Wichita order continued through 1963. For several years the average production per day per producer for each of the months of July through December remained relatively constant. In 1963 this 6-month average daily production was 1,127 pounds compared to a daily average production per producer of 986 pounds during the spring months. The April–June average during 1964–65 increased to 1,132 and 1,208 pounds per day. The 6-month average (July–December) during 1964–65 decreased to 1,061 and 1,074 pounds per day.

The pattern of production per producer in the Southwest Kansas order does not show as sharp and as distinct a change after termination of the take out-pay back plan as that cited for the Wichita market. Spring production, however, has increased and fall production has decreased in comparison to earlier years. The seasonal incentive plan was terminated nearly a year later than the one in the Wichita order and the production pattern change occurs only in 1965. The daily average April–June 1965 production per producer was 1,428 pounds and that for the July–December period was 1,174 pounds.

[4] Official notice is taken of the following publications: "Demand and Price Analysis," Frederick V. Waugh, U.S.D.A. Technical Bulletin 1316, November 1964. "The Demand and Price Structure for Dairy Products," Anthony S. Rojko, U.S.D.A. Technical Bulletin 1168, May 1957. "Consumption of Milk and Cream in the New York City Market and Northern New Jersey," Leland Spencer and Ida A. Parker, Cornell University Experiment Station Bulletin 965, July 1961. "Consumer Use of Dairy Products in Portland, Maine," H. Alan Luke, Maine Experiment Station Bulletin 477, November 1949. "Effect of Changes in Income and Price on Milk Consumption," George K. Brinegar, Storrs Experiment Station Bulletin 280, July 1951. "Dairy Marketing," Stewart Johnson, University of Connecticut monthly mimeographed report, February 1954 and 1960. "Milk Distribution Systems in Ohio," G. H. Mitchell, D. W. Ware, and E. F. Baumer, Ohio Research Bulletin 855, June 1960. "Changing Patterns of Milk Consumption in Memphis, Tennessee," Philip B. Dwoskin, James A. Bayton, and William S. Hoofnagle, U.S.D.A. Marketing Research Report No. 69, June 1954.

It was proposed that 20 cents per hundredweight be deducted from the uniform price to producers during each of the months of April, May, and June. The "pay-back" months would be September, October, and November. This is the plan adopted herein.

The 3 months of April through June are consistently the "flush months" and should be the months of "take-out." The rate of deduction of 20 cents per hundredweight from the uniform price was proposed. Such a rate should provide a seasonality in the uniform price of approximately 45 cents per hundredweight that would not otherwise occur. It is evident that producers have in the past responded to a moderate incentive to change their seasonal production pattern and the recommended rate should be adequate for the present.

The "pay-back" months of September through November, when the money previously deducted is divided into three equal parts and thus added to each of these months, should encourage producers to again increase production to meet current demands of fluid milk products. These are the months in both markets when there is a distinct increase in demand as compared to the rest of the year. Therefore incentive payments to producers during these months should be sufficient to encourage producers to meet the present demand situation in the combined and enlarged new Wichita order.

The cooperative associations proposed that the market administration pay out of the producer-settlement fund directly to handlers (including cooperative associations) in three equal amounts for each of the months of September through November the moneys deducted during the previous April through June period. It is recommended, however, that such funds be included, in three equal parts, when computing the uniform prices for the three months of September through November.

More than 95 percent of the producers are members of the two proponent cooperative associations. Thus cooperative associations, as they now do, can distribute returns to producers in such manner and at such rate as their boards of directors so direct. To adopt the plan proposed by cooperative associations, however, would require handlers receiving milk from producers not members of a cooperative association to either issue separate checks for the "pay-back" amounts involved or compute a uniform price including the "pay-back" funds. Under the circumstances it is concluded that all interests, producers' and handlers', may best be served by having the market administrator compute a uniform price for each of the months of September through November by adding in three equal parts to each month the funds deducted, during the previous April–June period. Such money withheld during these 3 months would be placed in the producer-settlement fund for disbursement as herein provided.

7. *Miscellaneous administrative and conforming changes.* Revised definitions of producer, producer milk and handler continue the present provisions of the Wichita order permitting a cooperative association to be a handler of bulk tank milk. These provisions as well as other sections, however, specify the division of responsibility for reporting and accounting for milk between a cooperative association acting as a handler of bulk tank milk and handlers as operators of pool distributing plants. The definitions of "Department" and "Chicago butter price" are added for simplicity and order clarity.

Both orders now provide for a cooperative association to be a handler of bulk tank milk of its producer members. Cooperative associations have been providing notice to the market administrator and to operators of pool plants with respect to their being a bulk tank handler of their member producer's milk. Since it is necessary that handlers and the market administrator be notified of such action to provide orderly marketing and accounting procedures, such a procedure is herein provided for in the order.

Handlers are now responsible for reporting the receipt of bulk milk from cooperatives. Classification of such milk is by agreement (subject to specified limitations) and payment to cooperative associations is at class prices. The cooperative associations in turn pay to or draw from the producer-settlement fund the difference between the value of such milk at class prices and its value at the uniform producer price. Under these provisions, when an audit of the handler's records results in a change of classification the market administrator must adjust the difference in value with the cooperatives which in turn must adjust differences with the handlers. To avoid this rather cumbersome procedure, it is provided that the responsibility for classification of such milk is that of the operator of the pool plant receiving the milk. The milk is assigned to the plant operator's utilization as producer milk of such plant. The value of the milk is included in the plant operator's net pool obligation at class prices and he is required to pay the applicable uniform price to the cooperative association for such milk. The plant operator is also responsible for paying the administrative assessment applicable to such milk. These procedures provide for specific accountability on the part of cooperative associations and the operators of pool plants. With operators of pool plants responsible for equalization with the marketwide pool, classification and auditing procedures are simplified in the administration of the order. These provisions should be adopted to provide clear cut and orderly procedures in the administration of the order.

Milk for which a cooperative association is the responsible handler and which is not delivered to another handler's pool plant remains the responsibility of the association in all respects—classification, accounting, and payment. Such milk could be that diverted for the account of the association, or shrinkage of bulk tank milk on which the basis of settlement with the pool plant operator was not at farm weights.

Certain dates with respect to announcement of prices, payments to various funds and to producers, and handler reports should be adopted as proposed. To enable the market administrator to better coordinate reporting dates with receipt of information regarding utilization of intermarket movements of milk, the announcement of the uniform price to producers should be made on or before the 12th of the month following the month for which the price of producer milk is computed. This date will enable changing the present date of the 7th of the month to the 8th when handler reports of receipts and utilization are due. Likewise payments due producers from handlers should be made by the second working day following the 12th day rather than the 11th as at present. Payments, as proposed by proponents, to the producer-settlement, marketing service, and administrative expense funds should be made by the 13th of the month. No objections were raised to these dates and they are appropriate administratively.

Interest should be charged a handler on overdue accounts due the producer-settlement, marketing service, and administrative expense funds. The rate should be one-half of 1 percent starting with the 1st day of the month following the date after such obligation is due and increased a like amount on the 1st day of each succeeding month until such obligation is paid. Remittances should be considered to be received when postmarked. The record does not disclose whether any handlers have been delinquent in payments to the market administrator. It is essential, however, that payments of amounts due the market administrator be made promptly. It is only reasonable, in equity to all, that any handler that is delinquent in payments pay an interest charge at a rate in accord with normal business practices. The rate herein specified is such a rate and encourages payments by handlers to the market administrator on or before the specified due dates.

A marketing service deduction of 6 cents per hundredweight is now provided in each order. It was proposed this rate be continued. It is so provided herein. The present number of producers not members of a cooperative association are few and will not materially increase as a result of expanding the marketing area. The present rate of deduction, with the small number of producers involved, has produced adequate funds to check farm weights and tests and to furnish market information. It should be noted that both the present and proposed orders provide that the Secretary may prescribe a lesser rate should the present rate produce more money than needed for the intended purposes.

The present rate of deduction for expense of administration should be 4 cents per hundredweight, or such lesser amount as prescribed by the Secretary. This is the rate in the present Wichita order and 1 cent less than in the present

Southwest Kansas order. The lesser rate should be adequate for the combined and expanded new order. The assessment should apply to each handler's receipts of producer milk, including his own production and receipts from a cooperative association in its capacity as a handler of bulk tank milk and other source milk allocated to Class I milk. These are the provisions of the present orders and should continue.

The adoption of various proposals necessitates certain changes in the specified order provisions. In addition, changes in other provisions are required to integrate the specific changes into a complete order while providing uniformity and clarity of provisions.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

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

(a) The tentative marketing 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.

Recommended Marketing Agreement and Order Amending the Order

The following order merging and amending the orders as amended regulating the handling of milk in the Wichita, Kans., and Southwest Kansas marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

Definitions

§ 1073.1 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.).

§ 1073.2 Secretary.

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

§ 1073.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1073.4 Person.

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

§ 1073.5 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.

§ 1073.6 Wichita, Kans., marketing area.

"Wichita, Kans, marketing area" hereinafter caled the marketing area, means all the territory within the counties enumerated below, all within the State of Kansas, together with all territory within the boundaries so designated which is occupied by government (municipal, State or Federal) reservations or installations:

Zone I

Barber.	Marion.
Barton.	McPherson.
Butler.	Pawnee.
Comanche.	Pratt.
Cowley.	Reno.
Edwards.	Rice.
Ellis.	Rush.
Harper.	Russell.
Harvey.	Sedgwick.
Kingman.	Stafford.
Kiowa.	Sumner.

ZONE II

Clark.	Lane.
Finney.	Meade.
Ford.	Morton.
Gove.	Ness.
Grant.	Scott.
Gray.	Seward.
Greeley.	Stanton.
Hamilton.	Stevens.
Haskell.	Trego.
Hodgeman.	Wichita.
Kearny.	

§ 1073.7 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 § 1073.14.

§ 1073.8 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

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

(c) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant to a nonpool plant for the account of such association;

(d) A cooperative association with respect to milk of its member producers 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 if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case, the milk is received from producers by the cooperative association at the location of the plant to which it is delivered; and

(e) A producer-handler, or any person who operates an other order plant described in § 1073.61.

§ 1073.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production, from pool plants of other handlers, and packaged fluid milk products from other order plants; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1073.10 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

§ 1073.11 Supply plant.

"Supply plant" means a plant from which fluid milk products, acceptable to an appropriate health authority for distribution under a Grade A label, are shipped during the month to and physically received at a distributing plant.

§ 1073.12 Pool plant.

"Pool plant" means:

(a) Any distributing plant, other than that of a producer-handler or one described in § 1073.61, which:

(1) Disposes of through route disposition fluid milk products in an amount equal to 25 percent or more during the months of March through July and 35 percent during all other months of such plant's total receipts of Grade A milk direct from dairy farmers, supply plants and cooperative associations in their capacity as a handler pursuant to § 1073.8(d) and has route disposition in the marketing area in an amount equal to 10 percent or more of such receipts. In any case in which the entire quantity of fluid milk products disposed of in packages in a particular size and form is received in such packages from other plants, all such disposition shall be credited to the plant from which such packages were received and shall be deducted from the appropriate disposition of the receiving plant; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in subparagraph (1) of this paragraph;

(b) Any supply plant from which during the month 50 percent or more of the Grade A milk received from dairy farmers and cooperative associations in their capacity as a handler pursuant to § 1073.8(d) is shipped to a plant(s) described in paragraph (a) of this section. Any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts during each of the months of August through November shall be designated a pool plant in each of the following months of December through July unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments; and

(c) Any plant which is operated by a cooperative association and 60 percent or more of the milk delivered during the current month by producers who are members of such association is delivered directly or is transferred by the association to pool plants as described in paragraphs (a) and (b) of this section, unless such a plant qualifies for the month as a "pool plant" under another order issued pursuant to the Act by delivering 50 percent or more of its Grade A receipts from dairy farmers to plants which qualified as "pool plants" under such other order.

§ 1073.13 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 which has route disposition of fluid milk products labeled Grade A in consumer-type packages or dispenser units in the marketing area during the month; and

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1073.14 Producer milk.

"Producer milk" shall be that skim milk and butterfat for each handler's account in the following milk from producers:

(a) With respect to the operations of a pool plant:

(1) Received directly from such producers;

(2) Diverted by the operator of such pool plant to a nonpool plant, subject to the condition of paragraph (c) of this section; and

(3) Which is received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1073.8(d), for all purposes other than those specified in paragraph (b)(2)(i) of this section;

(b) With respect to receipts by a cooperative association in addition to those pursuant to paragraph (a) of this section:

(1) For which such cooperative association is the handler pursuant to § 1073.8(c), subject to the condition of paragraph (c) of this section; and

(2) For which the cooperative association is the handler pursuant to § 1073.8(d) to the following extent:

(i) For purposes of reporting pursuant to §§ 1073.30(c) and 1073.31(a) and making payments to producers pursuant to § 1073.80(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler; and

(c) For the purposes of location adjustments pursuant to §§ 1073.53 and 1073.82, milk diverted shall be priced at the location of the pool plant from which diverted.

§ 1073.15 Other source milk.

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

(a) Receipts of fluid milk products during the month except:

(1) Fluid milk products received from pool plants; and

(2) Producer milk; and

(b) Products, other than fluid milk products, cottage cheese curd and cottage cheese, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month and any disappearance of nonfluid milk products not otherwise accounted for.

§ 1073.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, concentrated milk disposed of for fluid consumption other than in hermetically sealed metal or glass containers, buttermilk, flavored milk, yogurt, milk drinks (plain or flavored) "modified or fortified," including "dietary milk products" and reconstituted milk or skim milk, sour cream and sour cream products labeled Grade A, cream or any mixture in fluid form of milk or skim milk and cream (except frozen or aerated cream, ice cream or frozen dessert mixes, eggnog and sterilized products packaged in hermetically sealed containers).

§ 1073.17 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a distributing plant to a retail or wholesale outlet (including any delivery by a vendor, from a plant store or through a vending machine) except any delivery of a fluid milk product to any milk processing plant or to commercial food establishments pursuant to § 1073.41(c)(4).

§ 1073.18 Chicago butter price.

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

MARKET ADMINISTRATOR

§ 1073.20 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.

§ 1073.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend to the Secretary amendments thereto.

§ 1073.22 Duties.

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

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of funds provided by § 1073.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1073.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who within 10 days after the date upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 1073.30 through 1073.32; or

(2) Made payments pursuant to §§ 1073.80 through 1073.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and mail to each handler at his last known address the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk computed pursuant to § 1073.51(a) and the Class I butterfat differential pursuant to § 1073.52(a), both for the current month; and the minimum prices for Class II and Class III milk computed pursuant to § 1073.51 (b) and (c) and the Class II and Class III butterfat differentials pursuant to § 1073.52 (b) and (c), all for the previous month;

(2) On or before the 12th day of each month the uniform price computed pursuant to § 1073.71 and the butterfat differential computed pursuant to § 1073.81, both for the previous month;

(j) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this part and which do not reveal confidential information;

(k) On or before the 13th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers or from a cooperative association in its capacity as a handler pursuant to § 1073.8(d) in each class by each handler who in the previous month received milk from members of such cooperative association;

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1073.46(a)(9) and the corresponding step of § 1073.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1073.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

RECORDS, REPORTS, AND FACILITIES

§ 1073.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, reports for such month shall be made to the market administrator in the detail and on forms prescribed by the market administrator:

(a) Each handler described in § 1073.8(a) shall report with respect to each of his pool plants as follows:

(1) Receipts of skim milk and butterfat in:

(i) Producer milk;

(ii) Fluid milk products received from other pool plants; and

(iii) Other source milk, with the identity of each source;

(2) Opening inventories of fluid milk products;

(3) The utilization or disposition of all quantities required to be reported, including separate statements of quantities:

(i) Of bulk fluid milk products on hand at the end of the month;

(ii) Of packaged fluid milk products on hand at the end of the month; and

(iii) Of route disposition of fluid milk products in the marketing area; and

(4) Such other information with respect to receipts and utilization as the market administrator may request;

(b) Each handler described in § 1073.8 (b) shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those of producer milk; and

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1073.8 (c) and (d), as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1073.8(c);

(3) The quantities delivered to each pool plant of another handler pursuant to § 1073.8(d); and

(4) Such other information as the market administrator may require.

§ 1073.31 Payroll reports.

On or before the 20th day after the end of the month each handler described in § 1073.8(a), for each of his pool plants, and each cooperative association with respect to milk for which it is the handler pursuant to § 1073.8 (c) and (d) shall submit to the market administrator the producer payroll and each handler making payments pursuant to § 1073.62 (a) his payroll for dairy farmers delivering Grade A milk, which shall show for each producer or dairy farmer:

(a) The name and address;

(b) The total pounds of milk received and the average butterfat content thereof;

(c) The total pounds of milk diverted and the location of the nonpool plant; and

(d) The price, amount and date of payment with the nature and amount of any deductions.

§ 1073.32 Other reports.

Each producer-handler and each handler exempt from regulation pursuant to § 1073.61 shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 1073.33 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 and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts of producer milk and other source milk and the utilization of such receipts;

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

(c) Payments to producers and cooperative associations; and

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

§ 1073.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the 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 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

§ 1073.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported pursuant to § 1073.30 shall be classified by the market administrator pursuant to the provisions of §§ 1073.41 through 1073.46. 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 an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1073.41 Classes of utilization.

Subject to the conditions set forth in §§ 1073.43 through 1073.46 the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

(i) Any fluid milk product fortified with added solids shall be Class I milk in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) Any fluid milk product classified pursuant to subparagraphs (2), (3), and (4) of paragraph (c) of this section;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not specifically accounted for as Class II milk or as Class III milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce or added to cottage cheese and cottage cheese curd, except as classified pursuant to subparagraphs (2) and (3) of paragraph (c) of this section; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

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

(2) In fluid milk products or cottage cheese disposed of for livestock feed;

(3) In fluid milk products or cottage cheese dumped after notification to and opportunity for verification as may be requested by the market administrator;

(4) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(5) Used to produce frozen cream;

(6) In inventory of bulk fluid milk products on hand at the end of the month;

(7) In that portion of "fortified" fluid milk products not classified as Class I milk pursuant to paragraph (a)(1)(i) of this section;

(8) In shrinkage of skim milk and butterfat, respectively, assigned at each pool plant pursuant to § 1073.42(b)(1), but not to exceed the following:

(i) 2 percent of receipts of producer milk pursuant to § 1073.14(a) (1) and (2); plus

(ii) 1.5 percent of receipts of fluid milk products in bulk tank lots from other pool plants; plus

(iii) 1.5 percent of milk received from a cooperative association which is a handler for such milk pursuant to § 1073.8(d), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent; plus

(iv) 1.5 percent of receipts of fluid milk products in bulk tank lots from an other order plant, exclusive of the quantity for which Class III milk (or Class II milk) utilization was requested by the operator of such plant and the handler; plus

(v) 1.5 percent of receipts of fluid milk products in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class III milk (or Class II milk) utilization was requested by the handler; less

(vi) 1.5 percent of milk disposed of in bulk tank lots to other milk plants, except, in the case of milk diverted to a nonpool plant, if the operator of the plant to which the milk is diverted purchases such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(9) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1073.42(b)(2); and

(10) In shrinkage of skim milk and butterfat, respectively, resulting from milk for which a cooperative association is the handler pursuant to § 1073.8 (c) or (d) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of such receipts, exclusive of those for which farm weights are used as the basis of receipt at the plant to which delivered.

§ 1073.42 Assignment of shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler at each plant; and

(b) If the pool plant has receipts of other source milk, shrinkage shall be prorated between:

(1) Skim milk and butterfat in amounts respectively equal to 50 times

the maximum amount that may be computed pursuant to § 1073.41(c)(8); and

(2) Skim milk and butterfat in other source milk in the form of fluid milk products exclusive of that specified in § 1073.41(c)(8).

§ 1073.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1073.41 through 1073.46, 1073.50 through 1073.54, and 1073.70 through 1073.72, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1073.8(d) shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices shall be included in the receiving handler's net pool obligation pursuant to § 1073.70. For purposes of location adjustments pursuant to § 1073.53 and administrative expense pursuant to § 1073.88, such milk shall be treated as producer milk of the receiving handler; and

(c) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1073.44 Transfers.

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

(a) At the utilization indicated by the operators of both plants in their reports pursuant to § 1073.30, otherwise as Class I milk, if transferred from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1073.46(a)(9) and the corresponding step of § 1073.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1073.46(a)(4) and the corresponding step of § 1073.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I (then Class II) utilization to such other source milk; and

(3) If the handler transferring to the pool plant of another handler received during the month other source milk to be allocated pursuant to § 1073.46(a)(8) or (9) and the corresponding steps of § 1073.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I (or Class II) 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 or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the location adjustment points pursuant to § 1073.53(c), except that cream so transferred may be classified as Class III milk if prior notice is given to the market administrator and each container is labeled by the transferor as "Grade C" cream for manufacturing only;

(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 not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the location adjustment points pursuant to § 1073.53(c), 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 § 1073.30 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 milk 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 milk 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 milk 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 milk 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 milk utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk to the extent of such uses at the plant and then as Class III milk;

(e) 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 Class I milk if allocated as a fluid milk product under the other order to Class I milk and in Class III milk if not allocated to Class I milk (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class III milk to the extent of the Class III milk 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 milk subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for only two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and milk allocated to another class shall be classified as Class III milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1073.41; and

(f) If any skim milk or butterfat is transferred to a second plant under paragraph (d) of this section the same conditions of audit, classification, and allocation shall apply.

§ 1073.45 Computation of skim milk and butterfat in each class.

(a) For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1073.30 for each pool plant of each handler;

(b) If no fluid milk products to be assigned pursuant to § 1073.46(a)(8) or (9) were received at any pool plant of the handler, allocation pursuant to

§ 1073.46 and computation of obligation pursuant to § 1073.70 shall be made separately for each pool plant of a handler operating two or more pool plants;

(c) Unless the conditions specified in paragraph (b) of this section apply, the market administrator will compute the pounds of skim milk and butterfat in each class at all pool plants of such handler, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1073.46 and computation of obligation pursuant to § 1073.70 shall be based upon the combined utilization so computed; and

(d) Producer milk for which a cooperative association is the responsible handler pursuant to § 1073.8 (c) or (d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purposes of allocation pursuant to § 1073.46 and computation of obligation pursuant to § 1073.70.

§ 1073.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1073.45, the market administrator shall determine the classification of producer milk for each handler (or pool plant, if applicable) as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk classified as Class III milk pursuant to § 1073.41(c) (8);

(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 III 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 III milk, 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, in sequence beginning with Class III from the pounds of skim milk remaining in Classes II and III milk but not in excess of such quantity:

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

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

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class III (or Class II) milk utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III milk, 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 III 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 which were not subtracted pursuant to subparagraph (5) (i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (5) (ii) of this paragraph:

(i) In series beginning with Class III milk, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III milk utilization of skim milk announced for the month by the market administrator pursuant to § 1073.22(l) or the percentage that Class II and Class III milk utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers (or other pool plants, if applicable) according to the classification assigned pursuant to § 1073.44(a); and

(11) If the pounds of skim milk remaining in all 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 III milk. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1073.50 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, 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.

§ 1073.51 Class prices.

Subject to the provisions of §§ 1073.52 and 1073.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk.* The price for Class I milk at plants located in Zone I shall be the basic formula price for the preceding month plus $1.60, subject to a supply-demand adjustment computed pursuant to subparagraphs (1) through (3) of this paragraph. Such price shall not be less than the Class I price for milk containing 3.5 percent butterfat for the same period pursuant to Federal Order No. 64 (Greater Kansas City) during each month of the period August through March and plus 10 cents for each of the months of April through July, nor more than the Greater Kansas City Class I price (3.5 percent butterfat content) plus 50 cents during each of the months of the period August through March and plus 60 cents for each of the months of April through July:

(1) Divide the total receipts of milk from producers in the second and third months preceding by the total volume of producer milk in Class I milk for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage";

(2) Compute a "net deviation percentage" as follows:

(i) If the current utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the net deviation percentage is zero;

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage"; and

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "plus net deviation percentage";

Delivery period for which price applies	Delivery period used in computation	Percentages	
		Minimum	Maximum
January	October-November	119	129
February	November-December	126	136
March	December-January	129	139
April	January-February	130	140
May	February-March	131	141
June	March-April	132	142
July	April-May	141	151
August	May-June	145	155
September	June-July	139	149
October	July-August	135	145
November	August-September	124	134
December	September-October	116	126

(3) For a minus "net deviation percentage" the Class I price shall be increased and for a plus "net deviation percentage" the Class I price shall be decreased as follows:

(i) One-half cent times each such percentage point of net deviation; plus

(ii) One-half cent times the lesser of:

(*a*) Each such percentage point of net deviation; or

(*b*) Each percentage point of net deviation of like direction (plus or minus, with any net deviation percentage of opposite direction considered to be zero for purposes of computations of this subparagraph) computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; plus

(iii) One-half cent times the least of:

(*a*) Each such percentage point of net deviation;

(*b*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; or

(*c*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the second preceding month;

(iv) Less one-half cent, if necessary, to round down to the nearest whole cent.

(b) *Class II milk.* The price for Class II milk shall be the basic formula price for the month plus 15 cents.

(c) *Class III milk.* The price for Class III milk shall be the basic formula price for the month, but not to exceed a price computed as follows:

(1) Multiply by 4.2 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) of Grade AA (93-score) bulk creamery butter per pound at Chicago as reported for the month by the Department: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1073.52 Handler butterfat differentials.

If the average butterfat test of Class I, Class II or Class III milk as calculated pursuant to § 1073.46 is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential computed by multiplying the Chicago butter price by the applicable factor listed below, and rounding to the nearest one-tenth cent:

(a) *Class I milk.* Multiply such price for the preceding month by 0.120;

(b) *Class II milk.* Multiply such price for the current month by 0.115; and

(c) *Class III milk.* Multiply such price for the current month by 0.115.

§ 1073.53 Location differentials to handlers.

For milk received from producers or from a cooperative association pursuant to § 1073.8(d) at a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (d) of this section or for other source milk to which a location adjustment is applicable, the price at such pool plant when located:

(a) In Zone I of the marketing area, shall be that computed pursuant to § 1073.51(a);

(b) In Zone II of the marketing area, shall be 5 cents more than the Zone I price;

(c) Outside the marketing area, shall be the Class I price applicable at the nearest of the city halls in Garden City, Hays, Pratt, or Wichita, Kan., subject to a reduction of 12 cents if the distance to such city hall is 70 miles or more, but less than 80 miles, plus an additional 1.5 cents for each 10 miles or fraction thereof in excess of 79 miles (all distances to be by shortest hard-surfaced highway, as determined by the market administrator); and

(d) For purposes of calculating such location adjustments, transfers of fluid milk products between pool plants shall be assigned Class I milk disposition at the receiving plant, in excess of the sum of receipts at such plant from producers (including receipts from a cooperative association as a handler of bulk tank milk pursuant to § 1073.8(d)) and the pounds assigned as Class I milk to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to shipping plants priced at the same zone price, next to plants priced at the other zone price, and then in sequence beginning with the plant at which the least location adjustment credit would apply.

§ 1073.54 Use of equivalent prices.

If for any reason a price quotation required by this order 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

§ 1073.60 Producer-handlers.

Sections 1073.40 through 1073.46, 1073.50 through 1073.54, 1073.61, 1073.62, 1073.70 through 1073.72, and 1073.80 through 1073.89 shall not apply to a producer-handler.

§ 1073.61 Plants subject to other Federal orders.

The provisions of this part shall not apply with respect to the operation of any plant specified in paragraph (a), (b), or (c) of this section except that the operator shall, with respect to total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition during the month in such other Federal order marketing area is greater than was so disposed of in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition during the month in this marketing area is greater than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(c) A supply plant meeting the requirements of § 1073.12(b) which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of December through July if such plant retains automatic pooling status under this part.

§ 1073.62 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 §§ 1073.30 and 1073.31 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 § 1073.70 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 III (or 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 § 1073.70(g) and a credit in the amount specified in § 1073.84(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 §§ 1073.30 and 1073.31 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 § 1073.12(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant; and

(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 milk 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 III milk price).

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 1073.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (at each pool plant, if applicable) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1073.46(c), by the applicable class prices (adjusted pursuant to §§ 1073.52 and 1073.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1073.46(a)(11) and the corresponding step of § 1073.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class III milk price for the preceding month and the Class I milk price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1073.46(a)(6) and the corresponding step of § 1073.46(b);

(d) Add the amount obtained from multiplying the difference between the Class III milk price for the preceding month and the Class II milk price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class II milk pursuant to § 1073.46(a)(6) and the corresponding step of § 1073.46(b) for the current month; or

(2) The hundredweight of skim milk and butterfat remaining in Class III milk after the calculations pursuant to § 1073.46(a)(9) and the corresponding step of § 1073.46(b) for the preceding month, less the hundredweight used in computations pursuant to paragraph (c) of this section;

(e) 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 § 1073.46(a)(3) and the corresponding step of § 1073.46(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;

(f) Add an amount equal to the difference between the value at the Class I milk price applicable at the pool plant and the value at the Class III milk price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1073.46(a)(4) and the corresponding step of § 1073.46(b); and

(g) Add an amount equal to the value at the Class I milk price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I milk pursuant to § 1073.46(a)(8) and the corresponding step of § 1073.46(b).

§ 1073.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1073.70 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to §§ 1073.80 and 1073.84 for the preceding month;

(b) Deduct the amount of the plus differentials and add the amount of the minus differentials, which are applicable pursuant to § 1073.82;

(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 mutiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1073.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than 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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1073.70(g);

(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) From the remainder subtract during each of the months of April, May, and June, an amount equal to 20 cents per hundredweight of the total amount of producer milk included in these computations. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of September, October, and November, 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.

§ 1073.72 Notification of handlers.

On or before the 12th day of each month the market administrator shall notify each handler of:

(a) The quantity and value of his milk in each class computed pursuant to §§ 1073.46 and 1073.70 and the totals of such quantities and values;

(b) The uniform price computed pursuant to § 1073.71;

(c) The amount, if any, due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 1073.80 and 1073.84; and

(e) The amount to be paid by such handler pursuant to §§ 1073.87 and 1073.88.

§ 1073.73 Overdue accounts.

Any unpaid obligation of a handler pursuant to § 1073.84, § 1073.86(a), or § 1073.88 shall be increased one-half of 1 percent on the first day of the month following after the date such obligation is due and on the first day of each succeeding month until such obligation is paid. Any remittance received by the market administrator postmarked prior to the first of the month shall be considered to have been received when postmarked.

PAYMENTS

§ 1073.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the second working day following the 12th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price computed pursuant to § 1073.71 for such producer's deliveries of milk, adjusted by the butterfat and location differentials computed pursuant to §§ 1073.81 and 1073.82, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1073.85, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the 27th day of each month, to each producer:

(1) To whom payment is not made pursuant to paragraph (c) of this section; and

(2) Who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than 110 percent of the Class III price of 3.5 percent milk for the preceding month, without deduction for hauling;

(c) On or before the 14th day after the end of each month and on or before the 24th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which it caused to be delivered to such handler from producers, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payments due on or before the 14th day after the end of the month shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1073.31, and payments due on or before the 24th day of the month shall be accompanied by a statement of the amount of money for each producer; and

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1073.8(d), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the amount prescribed in paragraph (b)(2) of this section; and

(2) In making final settlement, the value of such milk at the applicable uniform price, less payment made pursuant to subparagraph (1) of this paragraph.

§ 1073.81 Butterfat differentials to producers.

In making payments pursuant to § 1073.80(a), the uniform prices per hundredweight shall be adjusted for each one-tenth of one percent that the average butterfat content is above or below 3.5 percent by a butterfat differential equal to the average of the butterfat differentials determined pursuant to § 1073.52 weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest one-tenth of a cent.

§ 1073.82 Location differentials to producers and on nonpool milk.

(a) For producer milk received at pool plants located outside Zone I, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1073.53 (b) and (c); and

(b) For purposes of computations pursuant to §§ 1073.84(b)(2) and 1073.85, the "weighted average price" shall be adjusted at the rates set forth in § 1073.53 (b) and (c), applicable at the location of the nonpool plant(s) from which the milk was received.

§ 1073.83 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 §§ 1073.62, 1073.84, and 1073.86, and out of which he shall make all payments to handlers pursuant to §§ 1073.85 and 1073.86. Immediately after computing the uniform prices for each month, the market administrator shall compute the amount by which each handler's net pool obligation is greater or less than the sum obtained by multiplying the hundredweight of milk of producers by the appropriate prices required to be paid producers by handlers pursuant to § 1073.80 and adding together the resulting amounts, and shall enter such amount on each handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

§ 1073.84 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts (for each pool plant, if applicable) specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of:

(1) The total of the net pool obligation computed pursuant to § 1073.70 for such handler; and

(2) In the case of a cooperative association which is a handler, the minimum amounts due from other handlers pursuant to § 1073.80(d)(2), and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1073.80; 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 III milk price) with respect to other source milk for which a value is computed pursuant to § 1073.70(g).

§ 1073.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any (for each pool plant, if applicable), by which the amount computed pursuant to § 1073.84(b) exceeds the amount computed pursuant to § 1073.84(a). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1073.86 Adjustment of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 1073.84, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed;

(b) Whenever verification discloses that payment is due from the market

administrator to any handler pursuant to § 1073.85, the market administrator shall, within 5 days, make payment to such handler;

(c) Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure; and

(d) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation, payment to such producer was in an amount more than was required to be paid pursuant to § 1073.80, no handler shall be deemed to be in violation of § 1073.80 if he reduces his next payment to such producer following discovery of such error by not more than such overpayment.

§ 1073.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 1073.80(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 14th 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, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services; and

(b) 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 shall make such deductions from the payments to be made directly to producers pursuant to § 1073.80(a) as are authorized by such producers, and on or before the 14th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

§ 1073.88 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 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1073.14(a)(3)) and such handler's own production;

(b) Other source milk allocated to Class I milk pursuant to § 1073.46(a) (4) and (8) and the corresponding steps of § 1073.46(b); and

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

§ 1073.89 Termination of obligation.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 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 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 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 part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or offset 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

§ 1073.90 Effective time.

The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 1073.91.

§ 1073.91 Suspension or termination.

Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the Act cease to be in effect.

§ 1073.92 Continuing power and duty of the market administrator.

(a) 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 handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate;

(b) The market administrator or such other person as the Secretary may designate, shall:

(1) Continue in such capacity until removed;

(2) From time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary, execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1073.93 Liquidation after suspension or termination.

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 such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1073.94 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.

§ 1073.95 Separability of provisions.

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

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

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 66-7313; Filed, July 5, 1966; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 16740; FCC 66-580]

FM BROADCAST STATIONS

Table of Assignments; San Bernardino, Calif.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. At the present time there are assigned FM Channels 236 and 260 in San Bernardino, Calif. There are also four unlimited time AM stations in this community. Station KFMW(FM) operates on Channel 260. A construction permit for Channel 236 was previously held by Telemusic Co. (call letters KRCS). On June 15, 1966, a request for an extension of time in which to complete construction of this station was denied by the Commission and its construction permit was deleted. The original construction permit for KRCS was issued prior to the adoption of the present mileage separation rules and assignment table in Docket No. 14185. Retention of Channel 236 in San Bernardino would involve two serious short spacings: One of about 36 miles with a cochannel station in Ventura, Calif., and another of about 9 miles with an adjacent channel station in San Diego, Calif. In view of these short spacings, it is proposed to delete this assignment and comments are therefore invited on the following proposal:

City	Channel No.	
	Present	Proposed
San Bernardino, Calif.	236, 260	260

3. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

4. Pursuant to applicable procedures set out in § 1.415 of the Commission's rule, interested parties may file comments on or before July 29, 1966, and reply comments on or before August 9, 1966. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

5. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all written comments, replies, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted: June 29, 1966.

Released: June 30, 1966.

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

[F.R. Doc. 66-7325; Filed, July 5, 1966; 8:46 a.m.]

[47 CFR Part 73]

[Docket No. 16739; FCC 66-579]

UHF TELEVISION BROADCAST CHANNELS

Memorandum Opinion and Order and Notice of Proposed Rule Making

In the matter of amendment of § 73.606 of the Commission rules and regulations to assign a new UHF television broadcast channel at Defiance, Ohio, Docket No. 16739, RM-814; Ohio Radio, Inc., Findlay, Ohio, RM-850.

1. On June 28, 1965, DBNW, Inc., filed a petition (RM-814) requesting the assignment of Channel 52 to Defiance, Ohio. On September 10, 1965, Ohio Radio, Inc., filed a petition requesting the assignment of Channel 41 to Findlay, Ohio. The requested channels in both petitions were selected on the basis of the pattern of UHF channel assignments adopted in the fourth report and order in Docket No. 14229 (FCC 65-504). On September 16, 1965, the Commission issued a public notice (FCC 65-813) announcing that owing to an error in the program used to develop the UHF assignment plan adopted in the fourth report, a corrected plan would be developed and issued. This was done in the fifth report and memorandum opinion and order in Docket No. 14229 (FCC 66-137), adopted February 9, 1966. The above petitions for rule making were mentioned in that document which noted that they required further consideration.

2. In support of its petition, DBNW, Inc., states that it is an Ohio corporation formed for the purpose of constructing and operating a UHF television broadcast station in the Defiance, Ohio, area, and that it had virtually completed an application for Channel 43, assigned to Defiance in the previous table of assignments, when the Commission announced the revised table adopted in the fourth report which did not include an assignment for Defiance. The petitioner goes on to say that the central concept is to establish a facility which will provide a principal city signal over the four communities (Defiance, Bryan, Napoleon, and Wauseon) each of which serves as the county seat of its respective county and also serves as the principal business and trading center and focal point for its county's activities. The closest TV stations are located in Fort Wayne, Ind., and Toledo, Ohio, some 35 to 40 miles distant. The petitioner urges that these four counties need and deserve a local TV station to serve local needs.

3. Ohio Radio, Inc., in support of its petition states that the city of Findlay is a growing community with a 1960 population of 30,344 which is estimated to have grown to 32,800 by 1965. Statistics concerning retail and wholesale sales, number of manufacturing establishments, and available rail and air transportation are recited. Findlay is the county seat of Hancock County. The petitioner represents to the Commission that if the requested channel is allocated to Findlay, it will proceed to submit an application for that channel.

4. We have employed the electronic computer to examine the assignment possibilities at Defiance and Findlay and find that only one channel (Channel 65) is available for use in the northwestern Ohio area without changes in other assignments. It will not meet the geographic separation requirements of the rules with respect to the post office reference point if assigned to Findlay although there may be a small area to the south and broadening to the west of Findlay where it could be used. We have no information as to the suitability or availability of sites in that area. It will meet those requirements both to the standard reference point in Defiance and to the transmitter site proposed by DBNW, Inc., in its petition. Use of Channel 65 at either Defiance or Findlay will remove the last remaining available assignment in Fort Wayne, Ind., and Bryan and Newark, Ohio. Fort Wayne currently has four commercial and one educational reservation; Bryan has only an educational assignment and Newark has one commercial and one educational assignment. Bryan would be served by the facility proposed by DBNW, Inc.

5. Bryan is not within the Grade A service contour of any TV station. It is within the Grade B contour of the two Toledo VHF stations and projected UHF station and two of the three Fort Wayne UHF stations. It is just outside the Grade B contour of the third Fort Wayne UHF station. Defiance is not within the Grade A contour of any TV station but is within the Grade B contours of the two Toledo VHF stations and the projected UHF station, the Lima UHF station and two of the three Fort Wayne UHF stations. It is just beyond the Grade B contour of the third Fort Wayne UHF station. Findlay is within the Grade A contour of the three Toledo

[1] Commissioner Wadsworth dissenting.

stations (2 VHF and projected UHF) and the Lima UHF station. Napoleon is within the Grade A contours of the three Toledo stations and within the Grade B contour of the Lima UHF station. Wauseon is within the Grade A contours of the three Toledo stations.

6. All of the above cities except Bryan are served by CATV systems. According to the 1966 edition of the Television Factbook, Ohio Cablevision, Inc., operates a CATV system in Findlay with 1,850 subscribers out of a potential of 5,000. It carries 9 TV stations, WTOL–TV and WSPD–TV, Toledo; WIMA–TV, Lima; WEWS, WJW–TV and WKYC–TV, Cleveland; WKBD, Detroit; CKLW–TV, Windsor, Ontario; and, WBNS–TV, Columbus. Direct Channels, Inc., operates CATV systems in Defiance, Napoleon and Wauseon. The Defiance and Wauseon systems carry WJBK, WWJ–TV and WXYZ–TV, Detroit; CKLW–TV, Windsor; WPTA, WANE–TV and WKJG–TV, Fort Wayne; WJIM–TV, Lansing; WIMA–TV, Lima; WTOL–TV and WSPD–TV, Toledo; WJW–TV, Cleveland; and WBGU–TV, the educational TV station at Bowling Green, Ohio. The Napoleon system carries all of the stations carried on the Defiance system plus WTVN, Columbus, Ohio.

7. There was no opposition to the subject petitions for rule making. Each of the petitioners asserted that they would apply for authority to construct and operate a new UHF television broadcast station if a channel were made available. There was no conflict between the two channels requested in the original petitions, however, those requests were based upon the pattern of assignments adopted in the fourth report and order. That table of assignments was superseded by the corrected table adopted in the fifth report and we are no longer able to propose an assignment both at Defiance and Findlay without changes in assignments elsewhere in the present table. The only available channel, Channel 65, will not comply with the required minimum geographic separations if assigned at the standard reference point in Findlay. It will comply with those requirements if assigned at the standard reference point in Defiance and considerable flexibility in the choice of a transmitter site, including the site contemplated by DBNW, Inc., is provided. Furthermore, the assignment at Defiance offers the possibility of local service to four small but important communities in northwestern Ohio.

8. Accordingly, pursuant to the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Table of Assignments in § 73.606(b) of the Commission rules insofar as the city listed below is concerned, to read as follows:

City	*Channels*
Defiance, Ohio	65

9. In view of that action: *It is ordered*, That, the petition of Ohio Radio, Inc. (RM–850), is denied.

10. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations interested parties may file comments on or before July 29, 1966, and reply comments on or before August 9, 1966. All submissions by parties to this proceeding, or by persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

11. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted: June 29, 1966.

Released: June 30, 1966.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 66–7326; Filed, July 5, 1966; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 95, 97]

[Ex Parte No. 252]

USE OF FREIGHT CARS

Incentive Per Diem Charges

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 23d day of June A.D. 1966.

Section 1(14)(a) of the Interstate Commerce Act, as amended by Public Law 89–430, effective May 26, 1966, requires the Commission, after consideration of the national level of ownership of each type of freight car and other factors affecting the adequacy of the national freight car supply, to determine whether the compensation for the use of such cars should be increased by incentive elements which will provide just and reasonable compensation to car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and national defense.

The legislative history of this public law, as well as the Commission's experience with the existing car shortage problem indicates that the need for expedition is imperative. Therefore, the Commission proposes to consider, under the schedule shown below, whether an incentive per diem charge of either $2.50 or some other amount should be prescribed on an interim experimental basis. Thereafter, the Commission will conduct a further investigation for the purpose of prescribing an incentive per diem rate or rates on a continuing basis as needed. For purposes of this interim proceeding, the Commission will take official notice of the record in Ex Parte 241, Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution, Rules and Practices, including the formulas set forth therein, and of the continuing car shortage by types of cars.

It is ordered, That an investigation be, and it is hereby, instituted by the Commission, upon its own motion, for the purpose of determining whether the establishment, on an interim basis, of an incentive per diem rate of either $2.50 per day or some other amount, to be added to the regular rate of per diem and to be paid to the car owner for the use of certain types of cars during periods of car shortages, will promote greater efficiency in the use of and increase the national freight car supply.

It is further ordered, That all common carriers by railroad subject to the Interstate Commerce Act be, and they are hereby, made respondents to this proceeding.

It is further ordered, That all respondents shall, on or before October 1, 1966, file and serve verified representations (original and 20 copies should be filed), including their recommendations on the tentative proposal indicated above, any additional facts or formula that the Commission should consider in rendering its decision herein, or in any later proceeding, and the most effective and appropriate method by which incentive elements may be employed to accomplish the stated purposes of section 1(14)(a), as amended, with the reasons therefor.

The representations should include, but not be limited to, the following subjects:

(1) (a) Should the incentive element be applied as a specific increase in the basic per diem charge?

(b) If so, should it be applied equally or variably as between cars of different types or different values?

(c) As an alternative, should the incentive element be constructed by varying the factor of return on investment?

(2) Should the incentive element be applied as a daily charge, a mileage charge, a combination of both, or by some other method?

(3) Should the incentive element be applied only to loaded movements, only to empty movements, or to both?

(4) Should the incentive element be applied during periods in which cars are held by shippers or consignees?

(5) Should the incentive element be applied to assigned cars and if so, by what method?

(6) What criteria should apply to any determination to exempt carriers or groups of carriers from liability to pay the incentive element?

(7) (a) What criteria should govern the determination as to the adequacy of the national supply of particular types of freight cars?

(b) What should be employed as the measure of an adequate supply of cars of any particular type?

(c) What degree of inadequacy should be considered tolerable without the need for use of the incentive element?

(d) What degree of improvement in the supply of a particular type of car should be sufficient to warrant discontinuance of the incentive element?

It is further ordered, That this proceeding be, and it is hereby, assigned for prehearing conference and hearing on November 1, 1966, at 10 a.m., U.S. standard time, at the offices of the Interstate Commerce Commission, Washington, D.C. Should any party desire to cross-examine on any matter contained in any of the above-specified representations, he must so notify the Commission and the witness or his counsel not later than October 20, 1966.

It is further ordered, That this proceeding be, and it is hereby, referred to Hearing Examiner R. C. Bamford for the prehearing conference and hearing. Due and timely execution of our functions imperatively and unavoidably requires the omission of a recommended report. The initial decision shall be by the entire Commission.

And it is further ordered, That a copy of this order be served upon each respondent, the Association of American Railroads, Car Service Division, the American Short Line Railroad Association, and the public utility commissions or boards or similar regulatory bodies of each State; that a copy be posted in the office of the Secretary of this Commission; and that a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-7348; Filed, July 5, 1966; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[431.1]

ELECTRIC DESK LAMPS

Tariff Classification

Correction

In F.R. Doc. 66–6278 appearing in the issue for Wednesday, June 8, 1966, at page 8082, in the third paragraph, line 5, the reference to "item 635.35" should read "item 653.35".

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

STATEMENT OF ORGANIZATION

Field Service Suboffices and Border Patrol Sectors

Effective upon publication in the FEDERAL REGISTER, the following amendments to the Statement of Organization of the Immigration and Naturalization Service (19 F.R. 8071, Dec. 8, 1954), as amended, are prescribed:

1. District No. 12—Seattle, Wash. of subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of sec. 1.51 *Field service* is amended in the following respects:

(a) Class A ports of entry is amended by adding "Point Roberts, Wash." in alphabetical sequence.

(b) Class B ports of entry is amended by deleting "Point Roberts, Wash."

2. Sector Nos. 9, 21, and 22 of paragraph (d) *Border Patrol Sectors* of sec. 1.51 *Field service* are amended to read as follows:

SECTOR NO. 9—BLAINE, WASH.

Bellingham, Wash.
Blaine, Wash.
Lynden, Wash.

* * * * *

SECTOR NO. 21—NEW ORLEANS, LA.

Baton Rouge, La.
Gulfport, Miss.
Lake Charles, La.
Mobile, Ala.
New Orleans, La.
Pensacola, Fla.
Texarkana, Ark.

* * * * *

SECTOR NO. 22—MIAMI, FLA.

Homestead, Fla.
Jacksonville, Fla.
Key West, Fla.
Miami, Fla.
Tampa, Fla.
West Palm Beach, Fla.

* * * * *

Dated: June 29, 1966.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 66–7315; Filed, July 5, 1966; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 358]

SVEN OLAF HAKANSON

Consent Probation Order for Export Control Act Violations

In the matter of Sven Olaf Hakanson, Ostersjovagen 28A, Hollviksnas, Malmo, Sweden, Respondent.

By charging letter dated March 9, 1966, the respondent was charged by the Director, Investigations Division, Office of Export Control, Bureau of International Commerce, with violations of the U.S. Export Control Act and regulations thereunder. The respondent was served with the charging letter and appeared in the proceedings. Pursuant to the provisions of § 382.10 of the Export Regulations, with agreement of the Director of the Investigations Division, the respondent submitted to the Compliance Commissioner a proposal for the issuance of a consent order substantially in the form hereinafter set forth. In said consent proposal the respondent, for the purpose of this compliance proceeding, admitted the charges set forth in the charging letter. He waived all right to an oral hearing before the Compliance Commissioner, and consented to the issuance of an order. He also waived all right of administrative appeal from, and judicial review of, such order.

On December 31, 1959 (25 F.R. 205), a temporary denial order was entered against respondent and other parties and on July 14, 1960 (25 F.R. 6854), the temporary denial order against this respondent was converted into an indefinite denial order because he failed to answer interrogatories. Shortly before July 26, 1965, the respondent furnished complete and responsive answers to the interrogatories served on him in 1960 and the indefinite denial order was terminated July 26, 1965 (30 F.R. 9550).

The charging letter of March 9, 1966, alleges, in substance, that during the years 1958 through 1961 the respondent knowingly reexported and caused the reexportation of U.S.-origin electronic equipment from Sweden to East Germany in violation of the U.S. Export Regulations. The Compliance Commissioner has reviewed the facts in the case and the respondent's proposal for the issuance of a consent order. He has approved the proposal and recommended that it be accepted.

Having considered the Compliance Commissioner's report and the consent proposal, I hereby make the following findings of fact:

1. The respondent is a resident of Malmo, Sweden, and deals in the technical aspects and sales of electronic measuring equipment. In the years 1958 through 1961 he conducted business under the firm name of Elmetrik. This business, which traded in electronic equipment, was operated as a side-line to the respondent's regular employment.

2. During the years 1958 through 1961 the respondent in a number of instances purchased from suppliers in Sweden U.S.-origin electronic equipment. The respondent knew that the equipment was of U.S.-origin and he knew that U.S. law prohibited the reexportation of said equipment from Sweden to East Germany without first obtaining authorization for such reexportation from the U.S. Department of Commerce.

3. During the period above mentioned the respondent reexported from Sweden to East Germany the following items of U.S.-origin equipment which he purchased as above set forth: a radiation detection instrument and accessories, and an oscilloscope and accessories.

4. During the period above mentioned the respondent on several occasions sold and delivered to the firm A/B Labeco, which had places of business in Stockholm, Sweden and West Berlin, Federal Republic of Germany, various items of U.S.-origin electronic equipment, which he acquired as set forth in Finding 2, consisting of klystrons, electronic tubes, and an autograph recorder. The respondent knew or should have known that the Labeco firm would reexport said commodities to East Germany, which it did. Authorization to reexport said commodities from Sweden to East Germany was not requested or obtained from the U.S. Department of Commerce.

Based on the foregoing, I have concluded that the respondent, without obtaining authorization from the U.S. Department of Commerce, knowingly reexported, transshipped and diverted, and caused the reexportation, transshipment and diversion of U.S.-origin commodities from Sweden to East Germany in violation of §§ 381.2 and 381.6 of the U.S. Export Regulations.

On consideration of the record in the case, and factors which warrant acceptance of the consent proposal, including the fact that respondent was subject to an order denying U.S. export privileges from December 31, 1959, to July 26, 1965, I do hereby accept the consent proposal.

Accordingly, it is hereby ordered,

I. For a period of 3 years from the effective date of this order the respondent is placed on probation on condition that he does not knowingly violate the Export Control Act of 1949, as amended, or any regulation or order issued thereunder. While the respondent is on probation he shall be permitted all export privileges as though this order had not been entered. If the respondent does not violate the condition of probation, this order without further action shall

terminate at the expiration of 3 years from its effective date.

II. In the event that, after investigation, it is found by the Director, Office of Export Control, or such other official as may at that time be exercising his duties, that the respondent has failed during the 3-year period of probation, to comply in any respect with the condition set forth in Part I hereof, such official may summarily and without notice to the respondent enter and publish an order against the respondent which in substance shall provide as follows:

(a) Revoke all outstanding validated export licenses to which respondent is a party.

(b) For a period up to 3 years deny to the respondent and all persons and firms related to him, all privileges of participating directly or indirectly in any manner or capacity in any exportation of any commodity or technical data from the United States to any foreign destination including Canada. Without limitation of the generality of this provision, participation in any exportation is deemed to include and prohibit participation by the respondent or any related party, directly or indirectly, in any manner or capacity in the conduct of trade (1) as a party or as a representative of a party to any validated export license application, or documents to be submitted therewith, (2) in the preparation or filing of any export license application or of any documents to be submitted therewith, (3) in the obtaining or using of any validated or general export license or other export control documents, (4) in the receiving, ordering, buying, selling, using or disposing in any foreign country of any commodities or technical data, in whole or in part, exported or to be exported, from the United States, and (5) in storing, financing, forwarding, transporting, or other servicing of such exports from the United States.

(c) 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 respondent or any related party, or whereby the respondent or any related party may obtain any benefits therefrom or have any interest or participation therein, directly or indirectly: (1) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control documents 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 respondent or any related party denied export privileges; or (2) 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.

(d) The entry of an order under this part shall not limit the Bureau of International Commerce from taking other action based on the violation for which probation was revoked as said Bureau shall deem warranted.

This order shall become effective on June 30, 1966.

SHERMAN R. ABRAHAMSON,
Acting Director,
Office of Export Control.

Dated: June 28, 1966.

[F.R. Doc. 66-7318; Filed, July 5, 1966; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 6F0499) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing the establishment of a tolerance of 1 part per million for residues of the herbicide bromacil (5-bromo-3-sec-butyl-6-methyluracil) in or on the raw agricultural commodities citrus fruits and pineapples.

The analytical method proposed in the petition for determining residues of the herbicide is that of H. L. Pease, Journal of Agricultural and Food Chemistry, vol. 14 (January/February 1966), pp. 94–96.

Dated: June 29, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-7320; Filed, July 5, 1966; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-258]

ISOCHEM, INC.

Notice of Receipt of Application for Construction Permit and Utilization Facility License

Isochem, Inc., Richland, Wash., pursuant to § 104.b, of the Atomic Energy Act of 1954, as amended, has filed an application, dated June 21, 1966, for a permit to construct and a license to operate a fission products conversion and encapsulation plant. The plant will recover the radioisotopes Strontium-90, Cesium-137, Promethium-147 and Cerium-144 from the waste stream of the chemical processing facilities of the Commission's Hanford Works and encapsulate these materials for sale, on a commercial basis, as sources of heat or radiation. The proposed facility, designated by the applicant as the Fission Products Conversion and Encapsulation (FPCE) Plant, is to be located on a 7.9-acre leased site in the 200-East Area of the Commission's Hanford Works about 20 miles northwest of Richland, Wash.

A copy of the application is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 28th day of June 1966.

For the Atomic Energy Commission.

J. A. MCBRIDE,
Director,
Division of Materials Licensing.

[F.R. Doc. 66-7310; Filed, July 5, 1966; 8:45 a.m.]

STATE OF NEBRASKA

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of Nebraska for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A resume, prepared by the State of Nebraska and summarizing the State's proposed program, was also submitted to the Commission and is set forth below as an appendix to this notice. Attachments referenced in the appendix are included in the complete text of the program. A copy of the program, including proposed Nebraska regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., or may be obtained by writing to the Director, Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 30 days after initial publication in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, were published as Part 150 of the Commission's regulations in FEDERAL REGISTER issuances of February 14, 1962, 27 F.R. 1351; September 22, 1965, 30 F.R. 12069; and March 19, 1966, 31 F.R. 4668. In reviewing this proposed agreement, interested persons should also consider the aforementioned exemptions.

Dated at Washington, D.C., this 1st day of July 1966.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

PROPOSED AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF NEBRASKA FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, the U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954), as amended (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Nebraska is authorized under section 71–3509 of the 1963 Radiation Control Act, to enter into this Agreement with the Commission; and

Whereas, the Governor of the State of Nebraska certified on June 3, 1966, that the State of Nebraska (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, the Commission found on , that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, the State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, the Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement, and

Whereas, this Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

ART. II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ART. III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ART. IV. This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ART. V. The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ART. VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ART. VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ART. VIII. This Agreement shall become effective on October 1, 1966, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

POLICIES AND PROCEDURES FOR THE CONTROL OF IONIZING RADIATION

FOREWORD

This narrative describes the policies and procedures of the State of Nebraska, Department of Health, radiological health program relating to the regulation of ionizing radiation sources. The control program will be conducted by the Division of Radiological Health.

AUTHORITY

Section 274b, 1954 Atomic Energy Act, as amended, authorizes an agreement between the U.S. Atomic Energy Commission and the Governor of a State. The agreement transfers to the State licensing and regulatory control of certain byproduct, source, and special nuclear materials. Transfer of this control depends upon an evaluation and acceptance by the Commission of the State's competence to administer a licensing and regulatory program.

Paragraph (1), section 71–3509 of the 1963 Radiation Control Act, authorizes the Governor of Nebraska to enter into the agreement. The Act makes the Department of Health responsible for public health and safety matters of ionizing radiation. The Department is authorized by the Act to develop rules and regulations for the safe use of radiation, registration of radiation sources, and licensing of radioactive materials in accordance with the agreement. The Act also authorizes a nine-member Radiation Advisory Council to the State Board of Health.

HISTORY

The Nebraska Department of Health has been engaged in radiological health since 1956 when public interest in fallout and X-ray exposures became significant. Until 1962, this program was an integral part of the Division of Laboratories, occupying the attention of at least one full-time technical employee. When funds were available, counting equipment and survey instruments were purchased. Personnel were given specialized training on the job or at courses offered by the U.S. Public Health Service and the U.S. Atomic Energy Commission.

On September 17, 1962, the State Board of Health created a separate Division of Radiological Health and transferred personnel from the Division of Laboratories to the newly created Division. This was done because the workload became significant, public interest was high in the health hazards associated with nuclear fallout and to take advantage of recently announced categorical funds from the U.S. Public Health Service.

During the period 1956–62 several hundred X-ray units had been physically inspected, a basic environmental surveillance capability established and various educational and assistance programs were inaugurated, especially in the area of radiological civil defense.

Until July 1964, the Director of Laboratories was Acting Director of the Division of Radiological Health. A permanent Director of Radiological Health was hired in July 1964, and subsequent staff vacancies were filled.

Early in 1964, safety inspections of dental X-ray machines began using the Dental Surpak method. By August of 1965 virtually all dental machines had been surveyed at least once. Correction of machine deficiencies was carried out as soon as results of the survey were obtained. Although some physical X-ray inspections of medical and industrial units had been carried out in the past, a concentrated effort to inspect all such sources in the State began in July 1965.

The environmental surveillance program has been strengthened and refined by acquiring low background gamma spectrum analysis equipment and establishing a statewide milk sampling network. The functional counting and survey equipment inventory is valued at $32,000.

LICENSING AND REGISTRATION

The State program will control all sources of ionizing radiation except those sources for which regulatory control has been retained by the U.S. Atomic Energy Commission.

Nebraska's Radiological Health Regulations have been developed in accordance with recommendations of the Radiation Advisory Council, U.S. Public Health Service, U.S. Atomic Energy Commission, and the Council of State Governments. Licensing and registration requirements will become effective on the effective date of the AEC-Nebraska Agreement.

Registration is required for radiation producing equipment; radium, radon, other naturally occurring and accelerator-produced radioactive materials of nonexempt quantities and types.

Section 71-3512 of the 1963 Radiation Control Act exempts hospitals and related institutions from the requirements of registration. However, information on sources of radiation is available to the radiation control program from applications for operating licenses issued by the Department which are renewed annually. Hospitals and related institutions are not exempt from the licensing requirements of the Act and Radiological Health Regulations.

Provisions have been made for the issuance of both specific and general licenses for byproduct, source, and special nuclear materials. Specific licenses will be issued to authorize receipt, use, possession, transfer or disposal of radioactive materials not exempted or generally licensed by the Department.

The licensing program will be essentially identical to that presently used by the U.S. Atomic Energy Commission. Applications for specific licenses will be reviewed and approved or disapproved by the Director, Division of Radiological Health. Prelicensing inspections will be made when necessary. Qualified members of the Radiation Advisory Council will be called upon for advice and assistance in evaluation of license applications for human use of licensed radioactive material when the proposed use is nonroutine. Other consultants may be named by the Board of Health as needed for unusual circumstances.

The signature of the Director, Division of Radiological Health, will be required on all specific licenses issued. Specific licenses for human use of radioactive material will also require the signature of the Director of Health.

INSPECTION

Periodic inspections will be conducted to determine a licensee's or registrant's degree of compliance with regulations and license conditions. These inspections will be performed by personnel of the Division of Radiological Health who are qualified to evaluate radiological health hazards and are conversant with the regulations.

Most inspections will be unannounced. The following frequency is planned but may be increased or decreased depending on individual circumstances:

Waste Disposal Operations—once each 4 months;

Industrial Radiographers—once each 12 months;

Broad Licenses—Industrial, Medical, Academic—once each 12 months;

Specific Licenses—Industrial, Medical, Academic—once each 24 months; and

Others—based on the hazards associated with the program.

Inspections will be comparable to the type now undertaken by the Division of Compliance of the U.S. Atomic Energy Commission.

At the end of each inspection, the inspector will confer with the licensee to discuss the results of his inspection, presenting recommendations or suggestions. During this meeting he will also answer questions on the regulatory program.

The inspector will submit a written report to the Director, Division of Radiological Health, on the results of each inspection. The report will enumerate items of noncompliance and, if any, include recommendations. Recommendations made by inspectors in the field are subject to critical review by senior members of the Division of Radiological Health.

Licensees are to be informed of any items of noncompliance observed during each inspection by letter from the Department after the inspection if items of noncompliance are of a more serious nature or by notice at the time of inspection if the items of noncompliance are only minor.

COMPLIANCE

If only minor items of noncompliance, such as improper signs, failure to label, etc., are involved which the licensee agrees in writing at the time of inspection to correct, no further action will be taken by the Department. Any corrective action taken by the licensee will be reviewed during the next inspection.

If the inspection reveals noncompliance of a more serious nature, the licensee will be required to correct such items within a time period to be specified by the Department based upon the degree of the hazard involved. The licensee will be required to inform the Department in writing at the end of the specified time period, usually 15 to 30 days, as to the corrective action he has taken. The Department will conduct a followup inspection or the matter will be reviewed during the next regular inspection to determine that the corrective action has been accomplished.

ENFORCEMENT

When, in the judgment of the Department, a person is engaged or about to engage in any act or practice in violation of the Radiation Control Act or the Radiological Health Regulations issued under the Act, the Nebraska Attorney General, or any county attorney, at the request of the Department, may make application to the district court for an order enjoining such act or practice or to direct compliance.

Should the Department determine that an emergency exists affecting the public health and safety, it has the authority to issue an order or regulation, effective immediately, to meet the emergency and to impound sources of ionizing radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of the Act or any rules or regulations issued under the Act.

The Act also provides an opportunity for any person to whom an emergency order or regulation is directed to file an application to the Department of Health for a hearing not less than 15 days nor more than 30 days after the filing of such an application. The Health Department shall, within 30 days after such hearing and on the basis of the hearing, continue, modify or revoke an order or regulation and mail the applicant a copy of its findings of fact and determination.

In accordance with section 3.12 of the Radiological Health Regulations, the terms of all Radioactive Material Licenses are subject to amendment, revision or modification. By order of the Director of Health, the Department may suspend, revoke or modify any license because of amendment to the Radiation Control Act; changes in or additions to the regulations on orders of the Department; false statements by the applicant for a license; and violations of or failure to observe the rules, regulations or orders of the Department of Health.

Section 71-3517 of the Act provides penalties, upon conviction, by fine for those persons who violate provisions of the Act or rules and regulations issued thereunder.

The full legal procedures will normally be used only in those instances where there is continued noncompliance after notice, deliberate and willful negligence on the part of a licensee or registrant or where a serious potential hazard exists.

RECIPROCITY AND COMPATIBILITY

The Nebraska Radiological Health Regulations provide for reciprocal recognition of licenses issued by the U.S. Atomic Energy Commission or any Agreement State. These regulations are consistent with those of the U.S. Atomic Energy Commission and, as far as possible, with other "Agreement" state regulations.

STAFFING AND DELEGATION OF AUTHORITY

The State of Nebraska Department of Health is responsible for administering provisions of the Radiation Control Act. The accompanying organization chart illustrates the lines of authority within the State.

The eight members of the State Board of Health are appointed by the Governor and administer the Department of Health. E. A. Rogers, M.D., M.P.H., Director of Health, conducts the affairs of the Department during the intervals between the Board meetings. Heinz G. Wilms, M.S., Director of Radiological Health, is responsible to the Director of Health and presents a periodic and annual report to the Board of Health. The Director of Radiological Health also acts as executive secretary of the Radiation Advisory Council to the Board of Health.

The Radiation Advisory Council consists of nine members appointed by the Governor. Council members represent the fields of (a) radiology, (b) medicine, exclusive of radiology, (c) health physics, (d) law, (e) agriculture, (f) labor, (g) industry, (h) dentistry, and (i) chiropractic, osteopathy or podiatry. The Council provides valuable advice to the Department of Health on policy and technical matters relating to the use and regulation of sources of ionizing radiation.

The Director of Radiological Health has technical and administrative supervision of the Radiological Health program.

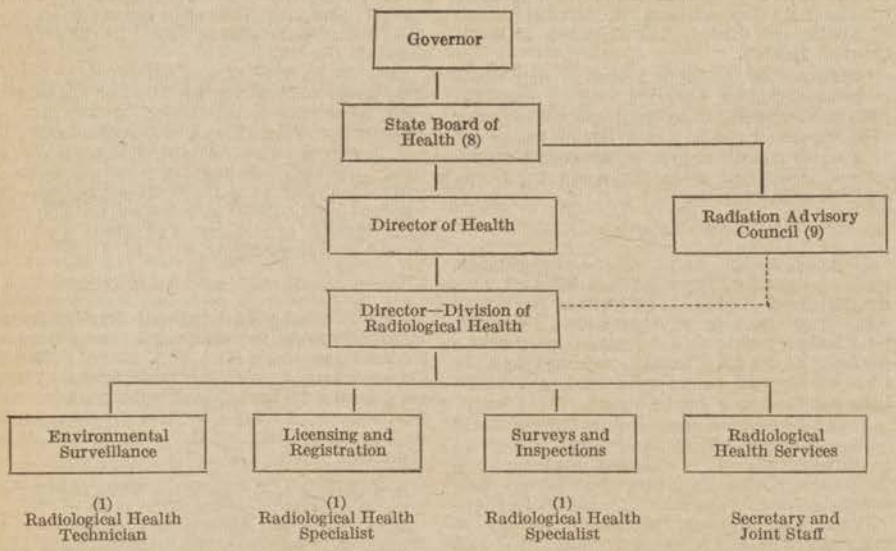
Radiological Health Specialists assist the Director in license application evaluations and issuance of specific licenses. Specialists also conduct and supervise licensee compliance inspections. Radiological Health Inspectors can conduct compliance inspections under supervision of a Specialist.

Newly employed Specialists and Inspectors will assume duties in licensee inspection after receiving training in broad aspects of the State's Radiological Health Program.

Persons hired to replace current personnel will be required to have equivalent capabilities in radiological health before conducting license application review or licensee inspections.

STATE OF NEBRASKA, DEPARTMENT OF HEALTH, DIVISION OF RADIOLOGICAL HEALTH

ORGANIZATION AND ACTIVITIES CHART



HEINZ G. WILMS, B.S., M.S.

DIRECTOR, DIVISION OF RADIOLOGICAL HEALTH

EDUCATION

B.A. in Physics, Westmar College, LeMars, Iowa, 1960; M.S. in Radiological Science, University of Washington, Seattle, 1962; AEC Health Physics Fellowship, 1960–1962; Radiation Protection Course, Hanford Atomic Products Operation, Richland, Wash., Summer, 1961; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., September, 1965; Radium Hazards and Control (1 week), USPHS, Montgomery, Ala., December 1965.

EXPERIENCE

1962–1963—Health Physicist for U.S. Geological Survey, Denver, Colo. Responsible for total radiation safety and licensing program of the USGS. Radiation usage included 1 and 10 curies Pu-be neutron sources; radium and cobalt-60 gamma sources for gamma well logging and instrument calibration; soil moisture and density probes using neutron sources; Antimony 124 used in beryllium exploration and quantitative analysis (50 mc and 1 curie respectively); uranium ores, fission product samples and various isotopes for radiochemical analyses; conducted leak tests and radiation surveys and prepared radiation protection procedures and kept inventories of radioactive material. Also was Bureau Safety Officer for USGS.

1963–1964—Health Physicist-Engineer A—Pan American World Airways, Nuclear Rocket Development Station, Nev. Supervisor in Radiation Services Department of PAA. In charge of industrial radiography, assisted in reactor power test radiation safety support in reentry procedures, special nuclear materials Accountability Officer and performed staff functions including preparation of rad-safe procedures.

1964–Present—Director, Division of Radiological Health, in charge of State radiological health program encompassing X-ray inspections; radioactive materials control, preparation of Radiological Health Regulations and overall charge of licensing and registration program. Has accompanied AEC inspector during routine inspections of licensees in Nebraska since 1964.

ORLEN N. JOHNSON, B.S., D.D.S., M.S.

RADIOLOGICAL HEALTH SPECIALIST I

EDUCATION

B.S., University of Minnesota, 1957; D.D.S., University of Minnesota, 1959; M.S., Major in Radiological Health, Wayne State University, Detroit, Mich., 1964; Basic Radiological Health (2 weeks), USPHS, Rockville, Md., May 1962; Medical X-ray Protection (2 weeks), USPHS, Rockville, Md., October 1964; Radiation and Radiation Protection (two semesters), University of Nebraska, 1965–1966; Radium Hazards and Control (1 week), USPHS, Montgomery, Ala., December 1965; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., March 1966.

EXPERIENCE

1964–1965—Director, Professional Education, Dental X-ray Program, State Assistance Branch, Division of Radiological Health, U.S. Public Health Service, Rockville, Md.; most important duties consisted of investigating and promoting educational materials on radiation hygiene for incorporation into dental education; planning and developing educational materials, such as pamphlets, displays, brochures, table clinics, and movies; participating in speaking engagements and educational presentations; working with State health departments, the American Dental Association, dental schools, and dental societies to develop radiological health educational programs for teachers of oral roentgeneology, dental students and practicing dentists.

August 1965 to present—Radiological Health Specialist, Nebraska State Health Department, Division of Radiological Health, Lincoln, Nebr., (PHS State Assignee); in charge of radium inspection, registration and assists in X-ray inspections and environmental surveillance; has accompanied AEC inspector during routine compliance inspections at licensee locations in Nebraska since 1965; has assisted in preparation of the Radiological Health Regulations; will assist Director in licensee inspections after effective date of Agreement until sufficient experience has been obtained to conduct inspections alone; will assist Director in evaluation of license applications.

H. ELLIS SIMMONS, B.S., M. of S.S. AND P.H.

RADIOLOGICAL HEALTH SPECIALIST I

EDUCATION

B.S. in Biological Science, Kansas State Teachers College, Emporia, Kans., 1952; Master of Sanitary Science and Public Health, Major in Radiological Health, Oklahoma University, Norman, Okla., 1964; Medical X-ray Protection (2 weeks), USPHS, Rockville, Md., May 1965; Radiation and Radiation Protection (two semesters), University of Nebraska, 1965–1966; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., March 1966.

EXPERIENCE

1954–1965—Public Health Environmental Sanitarian, Omaha-Douglas County Health Department, Omaha, Nebr.; 10 years experience in environmental sanitation; supervisor of milk sanitation program; given responsibility for development of an air pollution program.

March 1965–Present—Radiological Health Specialist, Nebraska State Health Department, Division of Radiological Health, Lincoln, Nebr.; in charge of and conducts X-ray inspection of medical, dental, industrial, veterinarian facilities; assists in radium surveys, environmental surveillance and registration; assisted in preparation of Radiological Health Regulations; accompanied AEC inspectors during routine compliance inspections of licensed facilities in Nebraska since 1965; will assist Director in license inspection after effective date of Agreement until he has sufficient experience to conduct inspections alone; will assist Director in evaluation of license applications.

EDWARD R. WILLIAMS

RADIOLOGICAL HEALTH TECHNICIAN

EDUCATION

113 hours college credit toward B.S. in Chemistry, University of Nebraska; X-ray-Lab Technician training, U.S. Army (Autumn, 1953); Course in Industrial Uses of Isotopes (two semesters, 1961), University of Omaha, Omaha, Nebr.; 1 week state conference on radiological health, USPHS, Las Vegas, Nev., May 1960; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., September 1963; Radiation and Radiation Protection (two semesters), University of Nebraska, 1965–1966.

EXPERIENCE

1958–Present—Radiological Health Technician, Nebraska State Health Department, Division of Radiological Health, Lincoln, Nebr.; work included activation analysis experiments at Omaha Veterans Administration Hospital, Omaha, Nebr., during a period of about 1½ years. Performs analysis of environmental surveillance samples (air, precipitation, water, and milk). Assists in X-ray surveys. Has accompanied AEC inspector during routine compliance inspections of licensed facilities in Nebraska since 1961. He will assist Director in licensee inspections after effective date of Agreement. When promoted to Inspector after obtaining degree and sufficient experience, he will be able to conduct licensee inspections alone, limited to facilities of a low priority nature. Subsequent experience and training will permit advancement to Specialist with increased responsibility and completion in licensee inspections.

[F.R. Doc. 66-7375; Filed, July 5, 1966; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 14755–14757; FCC 66M–917]

JUPITER ASSOCIATES, INC., ET AL.

Order Continuing Hearing

In re applications of Jupiter Associates, Inc., Matawan, N.J., Docket No. 14755, File No. BP–14178; William S. Halpern and Louis N. Seltzer, doing business as Somerset County Broadcasting Co., Somerville, N.J., Docket No. 14756, File No. BP–14234; Radio Elizabeth, Inc., Elizabeth, N.J., Docket No. 14757, File No. BP–14812; for construction permits.

It is ordered, This 29th day of June 1966, because of a conflict in the work schedule of the Presiding Officer in the above-entitled proceeding, that the hearing in said proceeding previously set for July 5, 1966, is hereby continued to July 20, 1966.

Released: June 29, 1966.

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

[F.R. Doc. 66–7327; Filed, July 5, 1966; 8:46 a.m.]

[Docket No. 16663; FCC 66M–919]

LAMAR LIFE INSURANCE CO.

Order Continuing Prehearing Conference

In re applications of Lamar Life Insurance Co., Docket No. 16663, File No. BRCT–326; for renewal of license of television station WLBT and auxiliary services, Jackson, Miss.

It is ordered, This 29th day of June 1966, because of a conflict in the work schedule of the Presiding Officer in the above-entitled proceeding, that the hearing conference in said proceeding previously set for July 6, 1966, is continued to a date to be specified by subsequent order.

Released: June 29, 1966.

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

[F.R. Doc. 66–7328; Filed, July 5, 1966; 8:46 a.m.]

[Docket Nos. 16342–16344; FCC 66M–920]

SEVEN (7) LEAGUE PRODUCTIONS, INC. (WIII)

Order Continuing Hearing

In re applications of Seven (7) League Productions, Inc. (WIII), Homestead, Fla., Docket No. 16342, File No. BR–3580; for renewal of license; South Dade Broadcasting Co., Inc., Homestead, Fla., Docket No. 16343, File No. BP–16371; Redlands Broadcasting Co., Inc., Homestead, Fla., Docket No. 16344, File No. BP–16476; for construction permits.

The Hearing Examiner having for consideration a Joint Motion for Continuance, filed on June 27, 1966, by Seven (7) League Productions, Inc., and South Dade Broadcasting Co., Inc., together with pleadings properly filed in response thereto;

It appearing, that certain petitions for approval of agreement are pending before the Review Board, the disposition of which may obviate some or all of the presently designated issues;

It is ordered, This 28th day of June 1966, that the subject petition is granted, and hearing herein is continued pending further order.

Released: June 29, 1966.

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

[F.R. Doc. 66–7329; Filed, July 5, 1966; 8:46 a.m.]

[Docket No. 16533; FCC 66M–918]

WASHINGTON BROADCASTING CO. AND WOL, INC.

Order Continuing Hearing

In re application of Washington Broadcasting Co. (Assignor); and WOL, Inc. (Assignee); Docket No. 16533, File Nos. BAL–5418, BALH–780, BALRE–1237; for assignment of licenses of stations WOL AM and FM, Washington, D.C.

It is ordered, This 29th day of June 1966, because of a conflict in the work schedule of the Presiding Officer in the above-entitled proceeding, that the hearings in said proceeding shall be held on July 11, 12, 13, and 14, 1966, and that the previously designated hearing dates of July 7 and 8, 1966, are hereby canceled.

Released: June 29, 1966.

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

[F.R. Doc. 66–7330; Filed, July 5, 1966; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

NORTH ATLANTIC UNITED KINGDOM FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

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

Interested parties may inspect and obtain a copy of the agreement 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:

Mr. R. J. Gage, Chairman, North Atlantic United Kingdom Freight Conference, 17 Battery Place, New York, N.Y. 10004.

Agreement 7100–3, between the member lines of the North Atlantic United Kingdom Freight Conference, modifies the scope of the basic agreement which presently covers the transportation of goods from U.S. North Atlantic ports in the Eastport, Maine/Hampton Roads range to ports in the United Kingdom and Eire, to provide for transshipment at European Continental ports, of containerized cargo only, on vessels owned or wholly time chartered by the transatlantic member. All other transshipments shall be prohibited. Other provisions are modified to reflect this change.

Dated: June 30, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–7336; Filed, July 5, 1966; 8:47 a.m.]

WEST COAST OF ITALY, SICILIAN AND ADRIATIC PORTS NORTH ATLANTIC RANGE CONFERENCE

Notice of Agreement Filed for Approval

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

Interested parties may inspect and obtain a copy of the agreement 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:

Mr. G. Ravera, Secretary, The West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference, Vico San Luca, 4, Genoa, Italy.

Agreement 2846–15, between the member lines of the West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference modifies the basic agreement to increase the amount of the admission fee of new members from $3,000 to $10,000.

Dated: June 30, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–7337; Filed, July 5, 1966; 8:47 a.m.]

GENERAL SERVICES ADMINISTRATION

STANDING INTERAGENCY COMMITTEES CHAIRED BY GENERAL SERVICES ADMINISTRATION

Establishment and Extension

Bureau of the Budget Circular No. A–63 of March 2, 1964, requires that notice of the establishment or extension of standing interagency committees be published in the FEDERAL REGISTER "in order to facilitate convenient and permanent reference by Federal agencies, unless this would be inconsistent with law or regulations, or where such publication would not be in the national interest." In compliance with this requirement the following information is provided relating to standing interagency committees chaired by the General Services Administration.

A. Standing committees established during fiscal year 1966:

Advisory Committee on Federal Buildings in the National Capital Region.
Interagency Advisory Committee on Standardization Planning.
Interagency Coordinating Committee on Medical Stockpile Shelf-Life Items.

B. Standing committees extended beyond June 30, 1966:

Interagency Advisory Committee on Disposal of Natural Rubber.
Interagency Advisory Committee on Security Equipment.
Interagency Committee for the Review of Federal Supply Schedules.
Interagency Procurement Policy Committee.
Interagency Transportation and Traffic Management Committee.
Interagency Utilities Committee.
Interdepartmental Disposal Subcommittee (of the Interdepartmental Committee, Office of Emergency Planning).

C. Standing committees extended beyond June 30, 1965:

Region 2, Wax Testing Committee.

D. Continuing interagency committees established by legislation, Executive order, or at the direction of the President:

Administrative Committee of the Federal Register.
Federal Fire Council.
National Archives Trust Fund Board.
National Historical Publications Commission.

Dated: June 27, 1966.

J. E. MOODY,
Acting Administrator of General Services.

[F.R. Doc. 66–7316; Filed, July 5, 1966; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

JAMESTOWN TELEPHONE CORP. ET AL.

Order Cancelling Hearing and Granting Withdrawal

JUNE 29, 1966.

In the matter of Jamestown Telephone Corp. (01–5); Meadville Telephone Co. (01–6); Home Telephone Co. of Ridgway (01–7).

The Jamestown Telephone Corp., Meadville Telephone Co., and Home Telephone Co. of Ridgway previously made application to the Securities and Exchange Commission for exemption from the registration requirements of section 12(g) of the Securities Exchange Act of 1934. A hearing upon said applications is now scheduled for July 1, 1966.

The three named companies now having filed Form 10 applications for the registration of their respective securities pursuant to section 12(g) of the Act and having filed requests to withdraw their exemption applications,

It is ordered, That the Commission hereby grants withdrawal of the exemption applications and cancels the hearing thereon.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66–7312; Filed, July 5, 1966; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

ORGANIZATION MINUTES

Operating Rights Division and Temporary Authorities Board

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 21st day of June 1966.

Section 17 of the Interstate Commerce Act as amended (49 U.S.C. 17), and other provisions of law being under consideration with a view to transferring the initial decision-making responsibility in the area of water carrier applications for temporary authority from Division 1 to the Temporary Authorities Board and authorizing the Temporary Authorities Board to decide initial applications for temporary authority received as a result of a strike:

It is ordered, That the Organization Minutes of the Interstate Commerce Commission relating to the Organization of Division and Boards and Assignment of Work, issue of July 27, 1965, as amended (30 F.R. 11189, 12559, 13302, 31 F.R. 242, 4762), be further amended in the following particulars:

1. Under the heading "Assignment of Duties to Division", Item 4.2(t) is amended to read as follows:

4.2 Division One—Operating Rights Division:

* * * * *

(t) Sections 313(1), 309, and 310, relating to certificates of public convenience and necessity and permits; section 311(a), relating to temporary authorities, when certified to the Division by the Temporary Authorities Board; section 410 (a) to (f), inclusive, section 410 (h) and (i), relating to permits, except matters assigned to and determined by an Operating Rights Board pursuant to Item 7.11(a)(1).

* * * * *

2. Under the heading "Assignments to Boards", Item 7.4(a) is amended to read as follows:

7.4 Temporary Authorities Board:

(a) Sections 210(a) and 311(a), relating to applications for temporary authority for service by common or contract carriers by motor vehicle or water, respectively, except applications involving broad questions of policy, matters in which the decision of the Board would be inconsistent with an order of the Commission or a division, and matters in which substantially the same question is already before the Commission or a division. Matters herein excepted from the Board's jurisdiction shall be certified to Division 1 under Item 7.4(e).

* * * * *

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66–7338; Filed, July 5, 1966; 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 30, 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. 40568—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 429), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Central States territory, on the one hand, and points in Middle Atlantic and New England territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—2d revised page 55 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40569—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 430), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Central States territory, on the one hand, and points in Middle Atlantic and New England territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—2d revised page 55 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40570—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 431), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Middle Atlantic and New England territories, on the one hand, and points in Central States, middle west and southwestern territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—2d revised page 55 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40571—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 432), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Middle Atlantic and New England territories, on the one hand, and points in Central States, middle west and southwestern territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—2d revised page 89 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40572—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 433), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Middle Atlantic and New England territories, on the one hand, and points in Central States, middle west and southwestern territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—2d revised page 89 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40573—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 434), for interested carriers. Rates on property moving on class rates over joint routes of applicant rail and motor carriers, between points in middle west territory, on the one hand, and points in Middle Atlantic and New England territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—2d revised page 89 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40574—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 435), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Middle Atlantic and New England territories, on the one hand, and points in Central States, middle west and southwestern territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—4th revised page 259 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40575—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 436), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Middle Atlantic and New England territories, on the one hand, and points in Central States, middle west and southwestern territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—4th and 2d revised pages 259 and 260, respectively, to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40576—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 437), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Middle Atlantic and New England territories, on the one hand, and points in Central States, middle west and southwestern territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—4th and 2d revised pages 259 and 260, respectively, to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40577—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 438), for interested carriers. Rates on property moving on class rates over joint routes of applicant rail and motor carriers, between points in Middle Atlantic and New England territories, on the one hand, and points in Central States, middle west and southwestern territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—4th revised page 259 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

FSA No. 40578—*Joint motor-rail rates—Eastern Central.* Filed by the Eastern Central Motor Carriers Association, Inc., agent (No. 439), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Central States territory, on the one hand, and points in Middle Atlantic and New England territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—2d revised page 78 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF–ICC A–268.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–7339; Filed, July 5, 1966; 8:47 a.m.]

[S.O. 981; 2d Rev. Pfahler's Car Distribution Direction 6]

ATLANTIC COAST LINE RAILROAD CO. AND ILLINOIS CENTRAL RAILROAD CO.

Boxcar Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 981.

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Atlantic Coast Line Railroad Co. shall deliver to the Illinois Central Railroad Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships and cars included in Service Order No. 986.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(b) The Atlantic Coast Line Railroad must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(c) The Illinois Central Railroad must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date: This direction shall become effective at 11:59 p.m., July 3, 1966.

(4) Expiration date: This direction shall expire at 11:59 p.m., July 24, 1966,

unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 29, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-7340; Filed, July 5, 1966; 8:47 a.m.]

[S.O. 981; 2d Rev. Pfahler's Car Distribution Direction 3]

ERIE-LACKAWANNA RAILROAD CO. AND CHICAGO & EASTERN ILLINOIS RAILROAD CO.

Boxcar Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 981.

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Erie-Lackawanna Railroad Co. shall deliver to the Chicago & Eastern Illinois Railroad Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships and cars included in Service Order No. 986.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(b) The carrier delivering the empty boxcars as described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(c) The carrier receiving the cars described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date: This direction shall become effective at 11:59 p.m., July 3, 1966.

(4) Expiration date: This direction shall expire at 11:59 p.m., July 31, 1966, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 29, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-7341; Filed, July 5, 1966; 8:47 a.m.]

[S.O. 981; 2d Rev. Pfahler's Car Distribution Direction 10]

THE KANSAS CITY SOUTHERN RAILWAY CO. AND CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO.

Boxcar Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 981.

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions.

(a) The Kansas City Southern Railway Co. shall deliver to the Chicago, Rock Island & Pacific Railroad Co. a weekly total of 350 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships and cars included in Service Order No. 986.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(b) The Kansas City Southern Railway Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(c) The Chicago, Rock Island & Pacific Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date: This direction shall become effective at 11:59 p.m., July 3, 1966.

(4) Expiration date: This direction shall expire at 11:59 p.m., July 24, 1966, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 29, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-7342; Filed, July 5, 1966; 8:47 a.m.]

[S.O. 981; Rev. Pfahler's Car Distribution Direction 11]

LOUISVILLE & NASHVILLE RAILROAD CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Boxcar Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 981.

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Louisville & Nashville Railroad Co. shall deliver to the Chicago, Burlington & Quincy Railroad Co. a weekly total of 350 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships and cars included in Service Order No. 986.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(b) The Louisville & Nashville Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(c) The Chicago, Burlington & Quincy Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction is hereby suspended.

(3) Effective date: This direction shall become effective at 11:59 p.m., July 3, 1966.

(4) Expiration date: This direction shall expire at 11:59 p.m., July 24, 1966, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 29, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-7343; Filed, July 5, 1966; 8:47 a.m.]

[S.O. 981; 3d Rev. Pfahler's Car Distribution Direction 8]

PENNSYLVANIA RAILROAD CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Boxcar Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 981.

It is ordered, That:

(1) each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Pennsylvania Railroad Co. shall deliver to the Chicago, Burlington & Quincy Railroad Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships and cars included in Service Order No. 986.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(b) The Pennsylvania Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(c) The Chicago, Burlington & Quincy Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date: This direction shall become effective at 11:59 p.m., July 3, 1966.

(4) Expiration date: This direction shall expire at 11:59 p.m., July 24, 1966, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 29, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-7344; Filed, July 5, 1966; 8:48 a.m.]

[3d Rev. S.O. 562, Pfahler's ICC Order 208]

CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Rerouting and Diversion of Traffic

Because of bridges washed out on its St. Francis, Kans., and Oberlin, Kans., branches, the Chicago, Burlington & Quincy Railroad Co., in the opinion of R. D. Pfahler, Agent, is unable to transport traffic routed over these branch lines.

It is ordered, That:

(a) Rerouting traffic: Because of bridges washed out on its St. Francis, Kans., and Oberlin, Kans., branches the Chicago, Burlington & Quincy Railroad Co. is unable to transport traffic over these branch lines in accordance with shippers' routing. The Chicago, Burlington & Quincy Railroad Co. is hereby authorized to reroute or divert such traffic via any available route. The billing covering each car so rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The Chicago, Burlington & Quincy Railroad Co. shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers: The Chicago, Burlington & Quincy Railroad Co. shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the direction of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rate of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 4 p.m., June 28, 1966.

(g) Expiration date: This order shall expire at 11:59 p.m., July 22, 1966, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 28, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-7345; Filed, July 5, 1966; 8:48 a.m.]

[Notice 206]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 30, 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 (6) 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 66562 (Sub-No. 2182 TA), filed June 28, 1966. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: H. B. Beemiller, 2436 Bagley Avenue, Detroit, Mich. 48216. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, serving Hicksville, Ohio, as an off-route point in connection with applicant's existing regular route authority to operate between Toledo, Ohio, and Fort Wayne, Ind., in MC 66562, Sub 1563, for 150 days. Supporting shipper: The application is supported by statements from 11 shippers, which may be examined here at the Interstate Commerce Commission in Washington, D.C. Send protests to: Anthony Chiusano, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 111729 (Sub-No. 161 TA), filed June 28, 1966. Applicant: ARMORED CARRIER CORPORATION, 222–17 Northern Boulevard, DeBevoise Building, Bayside, N.Y. 11361. Applicant's representative: J. K. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media, payroll records and checks and sales and advertising pamphlets moving therewith* (excluding plant removals), (a) between Baltimore, Md., and Lancaster, Pa., (b) between Alexandria, Va., and York, Pa., (2) *business papers, records, and audit and accounting media of all kinds* (excluding plant removals), (a) between Cleveland, Ohio, and New York, N.Y., (b) between Baltimore, Md., and Harrisburg, Pa., (3) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies consisting of labels, envelopes and packaging materials and advertising literature moving therewith* (excluding motion picture film used primarily for commercial theatre and television exhibition), between Glenside, Pa., on the one hand, and, on the other, Baltimore, Md., and Newark and Trenton, N.J., for 150 days. Supporting shippers: Marathon Parts, 126 Suburban West Building, 20800 Center Ridge Road, Cleveland, Ohio 44116; Interstate Photo Service, Inc., Post Office Box 8669, Philadelphia, Pa.; Scott's, division, Seaboard Plywood & Lumber Corp., 1914 North Charles Street, Baltimore, Md. 21218; Murry's Steaks, 403 Murry's Avenue, Alexandria, Va.; the Service Bureau Corp., 425 Park Avenue, New York, N.Y. 10022. Send protests to: E. N. Carignan, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 113678 (Sub-No. 258 TA), filed June 27, 1966. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from points in Morgan and Logan Counties, Colo., to points in Arizona, California, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Utah, Vermont, and Washington, for 180 days. Supporting shippers: Fred B. Hartman, Fort Morgan Dressed Beef, Inc., Fort Morgan, Colo.; Garland Wilson III, Sterling Colorado Beef Co., Sterling, Colo. Send protests to: Herbert C. Ruoff, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout, Denver, Colo. 80202.

No. MC 113678 (Sub-No. 259 TA), filed June 27, 1966. Applicant: CURTIS, INC., 770 East 51st Street, Denver, Colo. 80216. Applicant's representative: Oscar Mandel, Post Office Box 16004 S.Y.S., Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods;* (2) *frozen foods* in mixed loads; and (3) *frozen foods and canned goods* in mixed loads with agriculture commodities as defined in section 203(b)(6) of the Interstate Commerce Act, from points in Union, Covington, Madison, and Copiah Counties, Miss., to points in Colorado, Iowa, Indiana, Michigan, Ohio, New York, Massachusetts, Connecticut, New Jersey, Delaware, West Virginia, Virginia, Florida, Kentucky, the District of Columbia, Texas, and Nebraska, for 180 days. Supporting shipper: Sam T. Dunning, Mississippi Federated Cooperatives (AAL), Post Office Box 449, Jackson, Miss. 39205. Send protests to: Herbert C. Ruoff, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout, Denver, Colo. 80202.

No. MC 114364 (Sub-No. 122 TA), filed June 27, 1966. Applicant: WRIGHT MOTOR LINES, INC., 16th and Elm Streets, Post Office Box 672, Rocky Ford, Colo. Applicant's representative: Frank Jobe, Box 910, Cushing, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Clearfield, Ogden, and Perry, Utah, to points in Kansas, for 180 days. Supporting shipper: Smith Canning & Freezing Co., Victor R. Smith, president, Clearfield, Utah. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 115826 (Sub-No. 148 TA), filed June 27, 1966. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088, Terminal Annex, Denver, Colo. 80217. Applicant's representative: John F. DeCock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Roberts, Idaho, and points within 5 miles thereof to points in Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, Nevada, New York, Ohio, Oregon, Pennsylvania, Utah, Washington, Wisconsin, and Washington, D.C., for 180 days. Supporting shipper: Golden Valley Packers, Inc., Post Office Box 207, Roberts, Idaho 83444. Send protests to: Herbert C. Ruoff, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2022 Federal Office Building, Denver, Colo. 80202.

No. MC 124679 (Sub-No. 4 TA), filed June 28, 1966. Applicant: C. R. ENGLAND & SONS, INC., 228 West Fifth South Street, Salt Lake City, Utah 84101. Applicant's representative: Daniel B. Johnson, Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Ogden, Utah, to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Cleveland, Ohio, and the District of Columbia, for 180 days. Supporting shipper: Swift & Co., Post Office Box 1151, 390 West 24th Street, Ogden, Utah 84402. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2224 Federal Building, Salt Lake City, Utah 84111.

No. MC 126881 (Sub-No. 3 TA), filed June 28, 1966. Applicant: RICHARD B. RUDY, INC., 203 Linden Avenue, Frederick, Md. Applicant's representative: Richard B. Rudy (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices and concentrates, and dairy products* (restricted against the transportation of canned goods), from Frederick, Md., to Fredericksburg, Va., for account of Capitol Milk Producers Cooperative, Inc., for 150 days. Supporting shipper: Capitol Milk Producers Cooperative, Inc., 428 East Patrick Street, Frederick, Md. 21701, Attention: W. B. Anderson. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations and

Compliance, Interstate Commerce Commission, Room 1220, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 128345 TA, filed June 27, 1966. Applicant: OTTO SCOTT, doing business as OTTO SCOTT TRUCKING CO., 517 Tennessee Avenue, Chickasha, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* (TOFC), having a prior or subsequent movement by rail, between Chickasha and Anadarko, Okla., for 180 days. Supporting shipper: Rock Island Lines, La Salle Station, Chicago, Ill. 60605, R. G. McNeely, manager of operations. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations and Compliance, Room 350, American General Building, Interstate Commerce Commission, 210 Northwest Sixth, Oklahoma City, Okla.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-7346; Filed, July 5, 1966; 8:48 a.m.]

[Notice 1376]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 30, 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-68666. By order of June 28, 1966, the Transfer Board, on reconsideration, approved the transfer to Anthony Clesi, 1065 Allegheny Avenue, Oil City, Pa., of the operating rights of A. C. Laing and R. W. Laing, a partnership, Franklin, Pa., in certificate No. MC-126601, issued May 13, 1965, authorizing the transportation, over irregular routes, of sand and gravel, from points in Warren County, Pa., to points in Chautauqua County, N.Y., and amesite, and asphalt products, from points in Chautauqua County, N.Y., to points in Warren and McKean Counties, Pa. Robert Y. Daniels, 314 West Park Street, Franklin, Pa. 16323, attorney for transferor.

No. MC-FC-68685. By order of June 28, 1966, the Transfer Board approved the transfer to W. A. Marshall, doing business as Best-Way Transportation, 22 Meadow Road, Trumbull, Conn., of certificate of registration in No. MC-97489 (Sub-No. 1), issued October 8, 1964, to Gilbert Tanguay, doing business as Best-Way Express, Stratford, Conn., corresponding to the grant of intrastate authority to transferor in motor common carrier certificate No. C-343, dated October 14, 1949, issued by the Public Utilities Commission of Connecticut.

No. MC-FC-68710. By order of June 28, 1966, the Transfer Board approved the transfer to Big Three Moving & Storage Co., Inc., Mineola, N.Y., of certificate No. MC-113028, issued November 14, 1952, to William Davanzo and John Davanzo, a partnership, doing business as Big Three Moving & Storage Co., Mineola, N.Y., authorizing the transportation of household goods as defined by the Commission, over irregular routes, from points in Nassau County, N.Y., to points in Connecticut, New York, New Jersey, and Pennsylvania. Francis X. Sperl, 195 Willis Avenue, Post Office Box 334, Mineola, N.Y. 11501, attorney for applicants.

No. MC-FC-68770. By order of June 28, 1966, the Transfer Board approved the transfer to Watson Trucking Co., a corporation, Matteson, Ill., of certificate in No. MC-117500, issued January 10, 1961, to Edward Lafayette Watson, doing business as Watson Trucking Co., Matteson, Ill., authorizing the transportation of: Cement, in bulk and in bags, from Buffington, Ind., to points in a specified part of Illinois, and empty cement bags, on the return. James F. Flanagan, 111 West Washington Street, Chicago 2, Ill., attorney for applicants.

No. MC-FC-68808. By order of June 28, 1966, the Transfer Board approved the transfer to John Reginak, Millville, N.J., of certificate in No. MC-88071, issued December 4, 1963, to A. J. Cunningham, Sr., and James R. Cunningham, a partnership, doing business as A. J. Cunningham & Sons, Trenton, N.J., authorizing the transportation of: Construction and roadbuilding materials, supplies and equipment, between points in Pennsylvania within 50 miles of Trenton, N.J., on the one hand, and, on the other, points in New Jersey. Matthew Aaron, 204 Feinstein Building, Bridgeton, N.J., attorney for applicants.

No. MC-FC-68816. By order of June 28, 1966, the Transfer Board approved the transfer to Bowser, Inc., Longford, Kans., of the operating rights in certificate No. MC-29625, issued November 4, 1964, to H. A. Ware and J. H. Bowser, doing business as W & B Truck Line, Longford, Kans., authorizing the transportation of: Livestock, feed, agricultural implements and parts, and building and fencing materials, between specified points in Kansas, Missouri, and Nebraska. James G. Winn, 325 Broadway, Abilene, Kans. 67410, attorney for applicants.

No. MC-FC-68817. By order of June 28, 1966, the Transfer Board approved the transfer to Ralph Duchow, doing business as Duchow Transfer, Monroe, Wis., of the operating rights in certificate No. MC-94814, issued June 1, 1965, to Roger Dunwiddie, doing business as Dunwiddie Transfer, Juda, Wis., authorizing the transportation of: Household goods, as defined by the Commission, between points in Green County, Wis., on the one hand, and, on the other, points in Illinois within 45 miles of Juda, Wis. John L. Bruemmer, 121 West Doty Street, Madison, Wis. 53703, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-7347; Filed, July 5, 1966; 8:48 a.m.]

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