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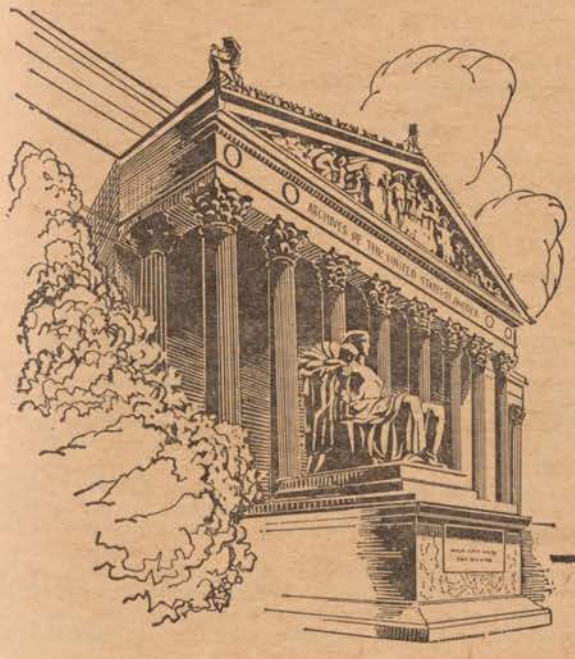

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Title 7—AGRICULTURE

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

[Valencia Orange Reg. 230, Amdt. 1]

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

Limitation of Handling

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) 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 Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1)(iii) of § 908.530 (Valencia Orange Reg. 230, 32 F.R. 4514) are hereby amended to read as follows:

§ 908.530 Valencia Orange Regulation 230.

* * * * *

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

(iii) District 3: 275,000 cartons.

* * * * *

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

Dated: March 20, 1968.

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

[F.R. Doc. 68–3571; Filed, Mar. 22, 1968; 8:50 a.m.]

[Lemon Reg. 313]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.613 Lemon Regulation 313.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 19, 1968.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period March 24, 1968, through March 30, 1968, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 204,600 cartons;

(iii) District 3: unlimited movement.

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

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

Dated: March 21, 1968.

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

[F.R. Doc. 68–3590; Filed, Mar. 22, 1968; 8:50 a.m.]

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

[Milk Order 41]

PART 1041—MILK IN NORTHWESTERN OHIO MARKETING AREA

Order Amending Order

§ 1041.0 Findings and determinations.

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

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

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

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

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

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than April 1, 1968. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued February 23, 1968, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued March 14, 1968. The current Class I price provisions automatically terminate March 31, 1968. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective April 1, 1968, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(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 herein amended; and

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

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

§ 1041.50 [Amended]

1. In § 1041.50, the last sentence is revised to read as follows: "For the purpose of computing the Class I milk price for April 1968, the basic formula price shall not be less than $4.05."

2. In § 1041.51, the introductory text and subparagraph (1) of paragraph (a) are revised to read as follows:

§ 1041.51 Class prices.

* * * * *

(a) *Class I milk price.* 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:

(1) $1.25, plus 20 cents for April 1968, subject to adjustment for location pursuant to § 1041.53; and

* * * * *

3. In § 1041.52, paragraph (a) is revised to read as follows:

§ 1041.52 Butterfat differentials to handlers.

* * * * *

(a) *Class I price.* Multiply the butter price for the preceding month by 0.120.

* * * * *

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

Effective date: April 1, 1968.

Signed at Washington, D.C., on March 20, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-3572; Filed, Mar. 22, 1968; 8:50 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

Subpart—Eligibility Requirements for Price Support

The Cooperative Marketing Associations Eligibility Requirements For Price Support issued by Commodity Credit Corporation and published in 30 F.R. 6907, 9260, 9877, 14915, 31 F.R. 10514, 12514, 32 F.R. 3688, 7123, 7699, and 8365, containing regulations governing the approval of cooperative marketing associations to obtain price support for certain commodities, are hereby revised to incorporate amendments 1 through 8 and supplement 1, to include provisions permitting greater flexibility in establishing financial requirements of an association which has not been approved to participate in the price support program for each of the last 3 preceding years and in approving associations on a conditional basis and to include other minor editorial changes. These regulations shall apply to cooperative marketing associations which are approved to participate, or are requesting approval to participate, in price support programs for 1968 and any succeeding crops of a commodity.

Sec.

AUTHORITY: The provisions of this subpart under secs. 4, 5, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 103, 401, 63 Stat. 1051 as amended; secs. 301, 401, 63 Stat. 1053; secs. 203, 301, 401, 63 Stat. 1054, sec. 302, 72 Stat. 988; 15 U.S.C. 714 b and c; 7 U.S.C. 1421, 1441, 1446d, 1447.

§ 1425.1 Applicability.

This subpart and any amendments thereto set forth the terms and conditions which a cooperative marketing association (hereinafter called "association") must meet to obtain price support on behalf of its members. An association meeting such terms and conditions may obtain price support on any crop of a commodity for which a price support program is in effect if regulations issued with respect to such program incorporate the provisions of this subpart or permit an association which meets the provisions of this subpart to participate in the price support program for a crop of such commodity.

§ 1425.2 Administration.

(a) *Responsibility.* The Farmer Programs Division, ASCS, will administer the provisions of this subpart under the general direction and supervision of the Deputy Administrator, State and County Operations, in accordance with program provisions and policy determined by Commodity Credit Corporation. In the field, the provisions of this subpart will be administered by the State and County Agricultural Stabilization and Conservation Committees and, where applicable, the Agricultural Stabilization and Conservation Service Commodity Office. As used in this part, the term "CCC" means the Commodity Credit Corporation and the term "ASCS" means the Agricultural Stabilization and Conservation Service.

(b) *Limitation of authority.* The authority conferred by this subpart to administer provisions contained herein does not include authority to modify or waive any of the provisions of this subpart.

§ 1425.3 Application.

(a) *Initial approval.* An association which desires approval to obtain price support shall submit an application for a determination of eligibility with respect to each of the commodities listed herein for which approval is sought. An application form and related questionnaire and copies of the regulations appearing in this subpart may be obtained from the Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. Inquiries relating to such documents should also be addressed to the Farmer Programs Division. The association shall forward its application and required information to the State ASC Committee of the State where the association's principal office is located. Applications with respect to each of the commodities listed herein and supporting material shall be submitted on or before the applicable date listed below of the calendar year in which the association requests approval to participate in the price support program for commodities marketed thereafter, or by such later date as the Executive Vice President, CCC, may authorize to alleviate hardship.

Commodity	*Date*
Cotton	Aug. 1
Dry edible beans	Aug. 1
Honey	July 1
Rice	Aug. 1
Soybeans	Sept. 1
Tung oil	Aug. 1

If price support program regulations for a commodity not listed above require an association to obtain approval under this subpart to be eligible for price support, the latest date for filing an application for approval with respect to such commodity shall be specified in such program regulations. Information submitted in connection with an application relative to trade secrets or financial or commercial operations or dealing with the financial condition of an applicant association shall be kept confidential by the officers and employees of CCC and the Department of Agriculture and shall not be released except to the extent CCC determines such action is necessary for the conduct of the price support program.

(b) *Approved associations.* An association shall be considered as an "approved association" for purposes of this paragraph (b) if:

(1) It is unconditionally approved to participate in a price support program with respect to the 1966 or any subsequent crop of a commodity; or,

(2) It is conditionally approved to participate in a price support program with respect to the 1966 or any subsequent crop of a commodity and has satisfied the conditions of approval. An approved association may participate in the price support programs for such commodity until its approval is terminated by the Executive Vice President, CCC, or his designee. An approved association shall furnish annually any information as to changes in its articles of incorporation or association, bylaws, resolutions, or other documents, or information relating to its method of operation, on which its approval is based with respect to §§ 1425.4, 1425.5, 1425.7, 1425.8, 1425.9, 1425.12, 1425.13, 1425.14, and 1425.15. Information submitted in connection with transactions described in paragraphs (b) and (c) of § 1425.8 shall be accompanied by explanations establishing that such transactions have not and will not operate to the detriment of members of the association. An approved association shall furnish annually the financial statements and other information necessary to determine its compliance with § 1425.6. An approved association shall furnish annually the material and documents required to determine compliance with §§ 1425.11, 1425.16, 1425.17, and 1425.18 or furnish certifications and statements required by such sections which provide that the association will comply therewith so long as it is approved under this subpart or until the approved association gives CCC written notice of its voluntary withdrawal from further participation in the price support program for which it was approved. The documents and information required by this paragraph (b) shall be furnished annually to the State ASC Committee of the State where the approved association's principal office is located. The date for filing such documents and information shall be as specified in paragraph (a) of this section for the commodity for which the association has been approved. If no filing date is specified therein for a commodity, it shall be the latest date for filing an application for approval specified in the price support program regulations applicable to such commodity. An approved association shall also furnish such additional information as may be requested at any time in connection with its continued approval under this subpart. Failure to furnish required or requested information within the time specified shall be a basis for termination of approval, except that the Executive Vice President, CCC, may extend the time for filing, or excuse late filing, to alleviate hardship. An approved association whose approval is terminated shall be reinstated on submission, within 90 days of the date of the notice of termination of approval, of satisfactory information showing that the association complies with the provisions of this subpart which served as the basis for the termination of approval.

§ 1425.4 Ownership and control.

The association shall be owned and controlled by its producer members and any bona fide cooperative association members (hereinafter called "association members").

(a) *Ownership.* The association must establish that its producer members and its association members which are owned and controlled by their producer members, own a capital interest in the association (i.e. stock, membership, revolving fund certificates, book credits or other equity interest) constituting more than 50 percent of the capital of the association. In determining the requisite capital interest of producer members and association members, the following shall be disregarded:

(1) The capital interest of any such member in excess of 10 percent of the capital of the association; and,

(2) The capital interest acquired by any such member as a result of a loan unless such member is obligated to repay the loan within a reasonable period of time.

(b) *Control.* The organization and operation of the association shall be under the control of its producer members and association members. The association shall submit in support of its application a detailed statement of its organization and method of operation and such other information as may be required by the Executive Vice President, CCC, showing the manner in which producer members and association members control the association.

§ 1425.5 Charter or bylaw provisions.

The articles of incorporation or association, the bylaws of the association or the statute under which the association is incorporated or operates shall provide for each of the requirements of this section.

(a) *Annual meeting.* The association shall hold an annual meeting of members or delegates at one or more locations within its operating area which will afford a reasonable opportunity for all members, or their delegates if the association has such manner of annual meeting, to attend and participate.

(b) *Notice of meetings.* Each member or delegate, as the case may be, shall be given written notice of the time, place, and purpose of all regular and special meetings of members or delegates.

(c) *Open membership.* The association shall admit to membership every applicant who (1) applies for admission for the purpose of participating in the activities of the association, and (2) is eligible for membership under the statute incorporating the association, except that the association may refuse admission to an applicant on its findings, based on reasonable grounds, that his admission would prejudice the interests or hinder or otherwise obstruct the purposes of the association.

(d) *Nominations.* Nominations shall be made as follows:

(1) Nominations for election of delegates and directors shall be made by secret balloting, nominating committee or petition of members; and,

(2) Nominations for election of officers shall be made by secret balloting or by a nominating committee.

Notwithstanding the foregoing provisions of this paragraph (d), the Executive Vice President, CCC, may, in his discretion, approve some other method of nomination which in his opinion will adequately protect the interest of members of the association. In any event, nominations shall be permitted by any member from the floor at the meeting for the election of delegates and directors, and by any director at the meeting for election of officers.

(e) *Secret ballot.* Voting for election of directors, delegates and officers shall be by secret balloting when there are two or more nominees for a position to be filled or more nominees than there are positions to be filled, as applicable.

(f) *Voting rights.* Each member of the association shall have a single vote regardless of the number of shares of stock owned or controlled by him, except that the Executive Vice President, CCC, may in his discretion, approve some other voting method which in his opinion will adequately protect the interests of the members of the association.

(g) *Proxy or power of attorney.* Voting by proxy or under power of attorney shall not be permitted, except that voting by proxy or under power of attorney may be permitted in order to increase the stock indebtedness of an association if the association seeking to hold such vote establishes to the satisfaction of the Executive Vice President, CCC, that the law of the State in which the association is incorporated does not permit members to vote by mail on this issue and does permit voting by proxy or power of attorney.

(h) *Financial statement.* Each member shall be given each year a summary financial statement based on an annual audit by a certified public accountant of the books and accounts of the association.

§ 1425.6 Financial condition.

(a) Financial ability: An association shall be financially able to make advances to its members and to market their commodity. It shall submit with its application evidence establishing that its operation is on a financially sound basis.

(b) Factors to consider: The factors which will be considered in determining the financial condition of an association include, but are not limited to, the following:

(1) The ability of the association to meet its current obligations, including the expenses of marketing the commodity of its members;

(2) The ability of the association to make advances to its members, either from its own funds or through arrangements with financial or other institutions;

(3) The ownership of an amount of net worth of the Association by its producer members and association members which is equal to the product of the amount per unit for a commodity (as shown below) multiplied by the total number of units of such commodity handled by the association during the preceding marketing year or, if the association is in its first full marketing year of operation, the estimated quantity of such commodity that it will handle during such year: *Provided,* That if an association has not been approved to participate in a price support program for each of the three crop years immediately preceding the crop year for which approval is being considered, the Executive Vice President, CCC, may establish the unit total of a commodity to be used in determining the adequacy of the association's net worth owned by the association's producer members and association members.

Commodity	Unit	Amount per unit
Cotton	Bale	$1.50
Rice	Hundredweight	.25
Dry edible beans	Hundredweight	.30
Soybeans	Hundredweight	.15

If the amount of the net worth of the association which is owned by producer members and association members is less than, but at least 34 percent of, the amount computed as set forth above, and the association is considered to be otherwise financially sound, the Executive Vice President, CCC, may determine that the operation of the association is on a financially sound basis if the board of directors of the association agrees to make a capital retain in the amount set forth below with respect to each unit of the commodity delivered to the association by producers until such time as the net worth owned by producer members and association members is at least equal to the amount per unit provided for above, and in the case of cotton, the association also agrees to deduct the full amount of the estimated expenses of handling each bale of cotton received by the association.

Commodity	Unit	Amount per unit
Cotton	Bale	$0.50
Rice	Hundredweight	.10
Dry edible beans	Hundredweight	.10
Soybeans	Hundredweight	.05

The failure to carry out such an agreement shall be grounds for terminating an association's approval.

(4) Any pledge of assets as security, or, the deposit or setting aside of funds or other assets to secure or guarantee any indebtedness of the association, or setting aside or deposit of funds in a restricted account to guarantee the performance of an obligation of the association, which is not reflected in the liability of the association in the financial statement. If any assets or funds have been so pledged, set aside or deposited, and the amount of such indebtedness or guarantee is not shown in the financial statement as a liability, the amount of net worth to be used in making the determination of financial responsibility will be reduced by the value or amount of such assets or funds.

(5) The quantity of the commodity for which approval is sought which was handled by the association during the preceding marketing year or, if the association is new, the estimated quantity it will handle during the first marketing year of operation.

(c) The association shall submit the following information:

(1) A current financial statement prepared by a certified public accountant from the books of original entry and certified by the certified public accountant as fairly representing the financial condition of the association.

(2) A statement showing the capital interest in the association (stock, membership, revolving fund certificates, book credits, or other equity interest) owned by its producer members and its association members which are owned and controlled by their producer members.

(3) A list of names of its producer members and association members which own in excess of 10 percent of the capital of the association and the amount of the capital interest which each such producer member and association member owns. If no such producer member or association member owns in excess of 10 percent of the capital of the association, a statement to this effect must be submitted.

(4) A list of producer members or association members, who, to the knowledge of the association, acquired a capital interest in the association as a result of a loan which the producer member or association member is not obligated to repay, and a copy of the note or other evidence of indebtedness securing such loan. If none of the capital interest of the association is acquired as a result of such a loan, a statement to this effect must be submitted.

§ 1425.7 Operations.

An association shall establish to the satisfaction of the Executive Vice President, CCC, that, with respect to the commodity for which approval is requested, it is so organized and staffed by individuals employed directly by it that it is able to perform its contracts with its members and to provide an effective marketing operation for its members, except that an association need not be staffed to perform such marketing services if:

(a) The association enters into an agreement with another cooperative marketing association to market the commodity;

(b) Such agreement is permitted by law;

(c) The charter and bylaws of the association acquiring the marketing service and the marketing agreement with its members contain necessary authority to enter into the agreement;

(d) The association acquiring the marketing service is a member of the cooperative marketing association which will provide the marketing service;

(e) The cooperative marketing association to provide the marketing service has been approved under this subpart to obtain price support for such commodity; and,

(f) It is established to the satisfaction of the Executive Vice President, CCC, that such agreement is in the best interest of the members of the association acquiring the marketing service.

§ 1425.8 Conflict of interest.

(a) *Transactions detrimental to members.* The association shall not be eligible for price support unless it establishes to the satisfaction of CCC that its transactions, if any, which are of a kind described in this section have not operated

and will not operate to the detriment of members of the association.

(b) *Association transactions.* The association shall submit with its application a detailed report concerning all of its transactions with the following persons during the year preceding the date of its application, or the date such information is required to be submitted under § 1425.3(b), as applicable, except for those transactions which do not differ from transactions entered into by the association with its general membership:

(1) With any director, officer, or principal employee of the association or with any of his close relatives;

(2) With any partnership from which any such person or any of his close relatives is entitled to receive a percentage of the gross profits;

(3) With any corporation in which any such person, or any of his close relatives own stock;

(4) With any business entity from which any such person or any of his close relatives receives fees for transacting business with or on behalf of the association; or

(5) With any business entity in which an agent, director, officer, or employee of the association was an agent, director, officer, or employee of such business entity.

A close relative means a husband or a wife or a person related as child, parent, brother, or sister, by blood, adoption, or marriage, and shall include in-laws within such categories of relationship. The report shall include, but is not limited to, transactions involving purchases, sales, handling, marketing, insurance, transportation, warehousing, and related activities.

(c) *Contemplated transactions.* The association shall also submit a statement as to whether any transactions of the kind described in paragraph (b) of this section are contemplated in the period between the date of the application, or the date such information is required to be submitted under § 1425.3(c), as applicable, and the end of the next marketing year for the commodity. If any such transaction is contemplated, the association shall submit a detailed explanation of such contemplated transaction(s) and a statement of the reasons therefor.

(d) *Directors, officers, and employees.* The association shall furnish information annually showing the interest or connection of its directors, officers, and principal employees and their close relatives with persons who engage in business relating to a commodity for which the association is approved to obtain price support.

§ 1425.9 Uniform marketing agreement.

Any quantity of a commodity on which price support is obtained, and any other quantity of such commodity which is included in the same pool with a quantity of the commodity on which price support is obtained, must be delivered to the association by its members pursuant to a uniform marketing agreement between the association and each of its members who delivered such commodity to the association. If the association provides alternative methods for marketing such commodity, the uniform marketing agreement must set forth all alternative methods of marketing the commodity which are available to any such members and how and when such options may be exercised.

§ 1425.10 Purchased and nonmember commodity.

Any commodity purchased from members who do not retain the right to share in the proceeds from marketing of such commodity as provided in §§ 1425.13 and 1425.14 and any commodity acquired from nonmembers is not eligible for price support.

§ 1425.11 Member business.

If price support is sought for a particular crop of a commodity, not less than 80 percent of such crop of the commodity that is acquired by or delivered to the association for marketing must be produced by its members or by members of its association members. Purchases of commodities by the association from CCC and deliveries of tung oil to the association pursuant to marketing contracts with CCC shall not be considered in determining the volume of member and nonmember business of the association.

§ 1425.12 Vested authority.

The association shall have authority to obtain a loan on the security of the commodity delivered to it by its members and to give a lien thereon and authority to sell such commodity.

§ 1425.13 Eligible commodity and pooling.

The association may obtain price support only on the quantity of the eligible commodity received from its eligible members which remains undisposed of in its inventory at the time such commodity is offered as security for a loan or is offered for purchase. The association may establish separate pools as needed for quantities of a commodity acquired from its members. If the association obtains price support from CCC on any quantity of the commodity included in a pool, all of the commodity included in such pool must:

(a) Have been produced by eligible producers on farms on which the production of such commodity is eligible for price support under the applicable price support program regulations;

(b) Meet eligibility requirements for making price support to the association under applicable price support program regulations, except that a part of the commodity so pooled may be ineligible for price support because of grade or quality or, in the case of cotton, bale weight or being repacked; and,

(c) Have been delivered to the association for marketing for the benefit of producer members or by association members in behalf of their producer members.

If price support is obtained on any quantity of a crop of a commodity, allocations of costs and expenses among separate pools for the crop of the commodity shall be made in accordance with sound accounting principles and practices. Any losses incurred by the association in marketing a commodity not included in a pool on which price support is obtained from CCC, shall not be assessed against the proceeds of marketing of a pool on which price support was obtained. CCC may approve an exception to the foregoing requirements upon written request by the association if the Executive Vice President, CCC, determines that the approval of such request will result in equitable treatment of producers and is in accord with the purposes of the price support program.

§ 1425.14 Distribution of proceeds.

If price support is obtained from CCC on any part of the commodity in a pool, the proceeds of such pool shall be distributed only to members participating in such pool ratably on the basis of the quantity and quality of the commodity delivered by each member which is included in such pool or on such other fair and reasonable basis as the Executive Vice President, CCC, may approve. The association shall submit with its application a detailed description of the method by which proceeds from a pool on which price support is obtained will be distributed. Such method shall assure CCC that proceeds obtained through price support will not accrue to persons other than eligible producer members.

§ 1425.15 Member associations.

(a) If an association includes in its membership an association member which markets through the association in behalf of producer members of the association member the commodity with respect to which approval is sought, the requirements of subparagraphs (1), (2), and (3) of this paragraph shall be met.

(1) Each such association member must have authority to deliver such commodity to the association. Also, each such association member must have authority to sell the commodity produced and delivered to such association member by its members, obtain a loan on the security thereof, and give a lien thereon.

(2) In its charter, bylaws, marketing agreement, or by other legal means, the association must require each association member to meet the requirements of this subpart.

(3) The association must determine that each such association member is eligible for price support under this subpart and must submit a certification that each such association member is eligible for price support under this subpart.

(b) The association shall determine and certify to CCC that its association members which are not subject to paragraph (a) of this section comply with the producer ownership, membership meeting and voting requirements of applicable State law.

(c) Notwithstanding the foregoing provisions of this section, an approved association is required to meet only the provisions contained in the first sentence of paragraph (a)(1) of this section with

respect to a member association for whom it markets the production of its producer members under § 1425.7.

§ 1425.16 Nondiscrimination.

The association shall not, on the ground of race, color, or national origin, deny any producer the benefits of, exclude him from participation in, or otherwise subject him to discrimination with respect to any benefits resulting from its approval to obtain price support and shall comply with the provisions of Title VI of the Civil Rights Act of 1964 and the Secretary's regulations issued thereunder, appearing in §§ 15.1–15.12 of this title (29 F.R. 16274), and any amendments thereto. The association agrees that the United States shall have the right to enforce compliance with such statute and regulations by suit or by any other action authorized by law. The association shall submit a certification with its application that the above cited regulations have been read and understood and that the association shall abide by them.

§ 1425.17 Records maintained.

The approved association, and its association members described in paragraph (a) of § 1425.15, if any, shall maintain a record which shows the quantity of the commodity eligible for price support which is received from each of its members, the date(s) and place(s) the commodity was received, the quality factors specified in the applicable regulations for the commodity (including class, variety, grade, and quality where applicable), and the quantity to which each applicable quality factor applies, and also, a record of the quantity of each disposition of the eligible commodity received from such members. The same kind of records shall be maintained by the association with respect to the commodity received from members and nonmembers which is ineligible for price support.

§ 1425.18 Inspection and investigation.

(a) *Inspection.* The books, documents, papers, and records of the approved association, and its association members, if any, for any year's business shall be available to CCC for inspection and examination at all reasonable times through the end of the fifth marketing year following the marketing year in which price support for the crop was available.

(b) *Investigation.* CCC shall have the right, at any time after an application is received, to examine all books, documents, papers, and records of the association and its association members and to make such investigations as are deemed necessary to determine whether the association and its association members, if any, are operating or have operated in accordance with the regulations in this subpart, their articles of incorporation or association, bylaws, agreements with producers and with the representations made by the association in its application for approval and, where applicable, its agreements with CCC.

§ 1425.19 Determination of eligibility.

The determination under this subpart of a cooperative marketing association's eligibility to obtain price support shall be made by the Executive Vice President, CCC.

§ 1425.20 Substantial compliance.

Notwithstanding the foregoing provisions of this part, if the Executive Vice President, CCC, determines that an association has not met all of the eligibility requirements of this subpart but has substantially complied with such requirements, or has met substantially all such requirements, he may approve the association for participation in the price support program if the association agrees in writing to meet all of the eligibility requirements of this subpart prior to the beginning of the marketing year for the crop of the commodity next succeeding the crop for which approval is then being sought. Board resolutions agreeing to comply with provisions of this subpart may be accepted by the Executive Vice President, CCC, as substantial compliance with such provisions for purposes of this section.

§ 1425.21 Definitions.

As used in this subpart the term "person" shall have the meaning of such terms as defined in the regulations pertaining to Reconstitution of Farms, Allotments, and Bases, Part 719 of this title and any amendments thereto.

The reporting and record keeping 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 March 18, 1968.

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

[F.R. Doc. 68-3570; Filed, Mar. 22, 1968; 8:49 a.m.]

Title 12—BANKS AND BANKING

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

PART 1—INVESTMENT SECURITIES REGULATION

Securities Eligible for Underwriting and Unlimited Holding

§ 1.206 Louisiana State Bond and Building Commission.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $5 million Public Building Bonds, Series DD, of the State Bond and Building Commission, State of Louisiana for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The State Bond and Building Commission is a body politic and corporate of the State of Louisiana created by an Act of the Louisiana Legislature to finance construction and improvement of public buildings located in the State, including projects for the Louisiana State University, the State Board of Education, and various educational, correctional, and penal institutions and State parks. These bonds are the final part of $95 million of bonds which the Legislature has authorized the Commission to issue for this purpose and are payable on a parity with the $90 million previously issued.

(2) There is pledged and dedicated to the payment of the principal and interest on these bonds certain beer taxes subject to a prior charge of amounts required to pay the debt service on previously issued Veterans' Bonus Bonds. The unpledged portion of the beer tax now amounts to $17 million per year.

(3) Under the Act a Bond Security and Redemption Fund has been established in the State Treasury for the purpose of retiring the bonds of the Commission. The revenues payable to this fund include all monies, receipts, and funds received from taxes, licenses, fees, and permits, including all bonus receipts collected from the sale of mineral leases, lease rentals, royalties, and other miscellaneous revenues, receipts, and surplus funds dedicated to or collected for the State's General Fund. Revenues which during the past 5 years have amounted to more than $100 million per year are now paid into the Bond Security and Redemption Fund. From this Fund the State Treasurer is directed to first set aside and pay to the Commission the amount required in each fiscal year for the payment of the principal and interest on its outstanding bonds and then to transfer all remaining monies into the General Fund. The amount which may thus be set aside and paid to the Commission in any fiscal year is limited to $6,500,000 but the annual debt service requirement for the bonds of the Commission will be less than that amount.

(4) The State of Louisiana by making the debt service requirements for these bonds a charge on its unpledged revenues from all sources before making such revenues available for general State purposes has committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $5 million Public Building Bonds, Series DD, of the State Bond and Building Commission, State of Louisiana are general obligations of a State under paragraph Seventh of 12 U.S.C. 24, and, accordingly, are eligible for purchase dealing in underwriting and unlimited holding by national banks. (Comptroller's letter dated Mar. 4, 1968.)

§ 1.207 Duval County Hospital Authority, Fla.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $7 million Duval County Hospital Authority Hospital Bonds, Series 1968, for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Duval County Hospital Authority, a body politic and corporate, was created in 1963 by an Act of the Florida Legislature for the purpose of acquiring, constructing, and operating hospitals in Duval County. The Act authorizes the Authority to issue, with the approval of qualified freeholders, $20 million in bonds to be secured by a special tax on all taxable property within the county. The required approval was obtained on August 4, 1964. On January 28, 1965, the Authority sold $13 million of the bonds thus authorized. It is now issuing the remaining $7 million.

(2) The Authority, a political subdivision of the State of Florida possessing powers of general property taxation, has unconditionally promised to pay these bonds. As authorized and required by law, the Authority has secured the repayment of these bonds by providing for the levy of a special ad valorem tax sufficient to pay the principal of and interest on the bonds. The proceeds of this tax must be used exclusively for that purpose. The Authority has also provided for the levy of an ad valorem tax for the maintenance operation, equipping, and administration of its facilities.

(c) *Ruling.* It is our conclusion, therefore, that the bonds of the Duval County Hospital Authority are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Comptroller's letter dated Mar. 11, 1968.)

§ 1.208 Parking Authority, Beverly Hills, Calif.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $5,500,000 Parking Revenue Bonds of the Parking Authority of the City of Beverly Hills, Series 1, for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the City of Beverly Hills is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The City Council has made the appropriate finding and, in accordance with the law, has declared itself to be the parking authority. Under the law a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the City under such lease.

(2) The Authority is issuing these bonds to finance the acquisition and construction of parking facilities which will be leased to the City for operation. Under the lease rental agreement the City has unconditionally promised to pay annual rentals to the Authority in amounts sufficient to meet annual interest and principal payments on these bonds. While the City expects to meet its lease rental obligations principally from revenues derived from its parking operations, its obligation to pay the rentals is a general obligation and is not limited to payment from any specific source. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $5,500,000 Parking Revenue Bonds of the Parking Authority of the City of Beverly Hills, Series 1, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated Mar. 13, 1968.)

§ 1.209 Port Authority of Allegheny County, Pa.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $20 million Port Authority of Allegheny County Transit Bonds, Series A, for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Port Authority of Allegheny County is a body corporate and politic created by an Act of the Commonwealth of Pennsylvania and organized, pursuant to the Act, by the County of Allegheny. Under the Act a port authority is authorized to plan, acquire, construct, improve, maintain, and operate a mass transportation system within its designated service area, to borrow money, and to issue bonds. The Act also authorizes the county to make grants or loans from current revenues or the proceeds of general obligation bonds to a port authority to assist in defraying the costs of any demonstration, test or experimental projects, and the cost of studies in preparation of a plan of integrated operation and for the operation, maintenance and debt service of any facility and to enter into long term agreements providing for the payment of such grants.

(2) The Authority has acquired the properties of a number of transportation systems in its area and has consolidated and integrated these properties into a single mass transportation system. It has financed these acquisitions as well as the cost of demonstration, test or experimental projects by short term borrowings in the principal amount of $45 million. These borrowings are evidenced by notes which mature on April 15, 1968. It proposes to pay the maturing notes by the issuance of new notes in the amount of $25 million and by payment of cash in the amount of $20 million plus accrued interest. The cash payment is to be derived principally from the issuance and sale of these bonds.

(3) The County has entered into a long term agreement to pay to the Authority in each year in which the bonds remain outstanding an amount which, along with such other monies which may be made available for such purposes, will be sufficient to pay all debt service requirements on the bonds. The County which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $20 million Port Authority of Allegheny County Transit Bonds, Series A, are general obligations of a State or political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Comptroller's letter dated Mar. 14, 1968.)

Dated: March 19, 1968.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 68-3568; Filed, Mar. 22, 1968; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 68-EA-30; Amdt. 39-565]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.19 of Part 13 of the Federal Aviation Regulations so as to issue an airworthiness Directive requiring an inspection and where necessary, replacement of the engine to transmission coupling shaft on Fairchild Hiller FH 1100 type helicopters.

There have been incidents of failure of the engine to transmission coupling shaft on the FH 1100 helicopter due to corrosion from water contamination. Since this condition is likely to exist or develop in other helicopters of the same design, an airworthiness directive is being issued to require inspection and when necessary replacement of the coupling shaft.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

FAIRCHILD HILLER. Applies to FH-1100 type helicopters serial numbers 10 thru 76 inclusive and 83.

Compliance required as indicated unless already accomplished.

To preclude the possibility of failure of the engine-to-transmission coupling shaft

due to corrosion resulting from water contamination, accomplish the following:

(a) Within the next 100 helicopter hours' time in service following the effective date of this AD, remove Bendix coupling shaft P/N 19E49-3A and inspect for any corrosion and if found, replace with P/N 19E49-3B or if corrosion is absent modify in accordance with accomplishment instructions contained in Fairchild Hiller Service Bulletin No. FH-1100-24-1 dated January 25, 1968, or later FAA approved revision, or an equivalent inspection procedure or modification approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(b) Upon request, with substantiating data submitted through an FAA maintenance inspector, the compliance time may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective March 23, 1968.

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

Issued in Jamaica, N.Y., on March 14, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-3589; Filed, Mar. 22, 1968; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1301]

PART 13—PROHIBITED TRADE PRACTICES

Associated Sales and Bag Co. et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Associated Sales and Bag Co. trading as Associated Bag Co. et al., Milwaukee, Wis., Docket C-1301, Feb. 27, 1968]

In the Matter of Associated Sales and Bag Co., a Corporation, Trading as Associated Bag Co., and Philip Rubenstein, Individually and as an Officer of Said Corporation

Consent order requiring a Milwaukee, Wis., corporation to cease misbranding its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Associated Sales and Bag Co., a corporation, trading as Associated Bag Co., or under any other name, and its officers, and Philip Rubenstein, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported in commerce, of any textile fiber product whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible, and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: February 27, 1968.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-3510; Filed, Mar. 22, 1968; 8:45 a.m.]

[Docket No. C-1302]

PART 13—PROHIBITED TRADE PRACTICES

"M. G. II", Inc., and Melvin Golden

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, "M. G. II" Inc., et al., New York City, N.Y., Docket C-1302, Feb. 29, 1968]

In the Matter of "M. G. II," Inc., a Corporation, and Melvin Golden, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer of ladies' rainwear and car coats to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents "M. G. II", Inc., a corporation, and its officers, and Melvin Golden, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: February 29, 1968.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-3511; Filed, Mar. 22, 1968; 8:45 a.m.]

[Docket No. C-1303]

PART 13—PROHIBITED TRADE PRACTICES

Reliable Wool Stock Corp. et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-40 Federal Trade Commission Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68) [Cease and desist order, Reliable Wool Stock Corp. et al., New York City, N.Y., Docket C–1303, Mar. 4, 1968]

In the Matter of Reliable Wool Stock Corp., a Corporation, and Jack Goldstein and Leon Karson, Individually and as Officers of Said Corporation

Consent order requiring a New York City distributor of raw wool stock to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Reliable Wool Stock Corp., a corporation, and its officers, and Jack Goldstein and Leon Karson, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for introduction into commerce, introduction into commerce, or offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner, each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Reliable Wool Stock Corp., a corporation, and its officers, and Jack Goldstein and Leon Karson, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of woolen clips or other products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: March 4, 1968.

By the Commission.

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

[F.R. Doc. 68–3512; Filed, Mar. 22, 1968; 8:45 a.m.]

[Docket No. C–1304]

PART 13—PROHIBITED TRADE PRACTICES

Smartshire Coat, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely;* 13.1108–45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Smartshire Coat, Inc., et al., New York City, N.Y., Docket C–1304, Mar. 4, 1968]

In the Matter of Smartshire Coat, Inc., a Corporation, and Julius Weinberg and Samuel Plotkin, Individually and as Officers of Said Corporation

Consent order requiring a New York City manufacturing furrier to cease misbranding and falsely invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Smartshire Coat, Inc., a corporation, and its officers, and Julius Weinberg and Samuel Plotkin, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation, or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing, directly or by implication, on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Failing to set forth the term "natural" as part of the information required to be disclosed on an invoice under the Fur Products Labeling Act and rules and regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failing to set forth on an invoice the item number or mark assigned to such fur product.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: March 4, 1968.

By the Commission.

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

[F.R. Doc. 68–3513; Filed, Mar. 22, 1968; 8:45 a.m.]

[Docket No. 8666 o.]

PART 13—PROHIBITED TRADE PRACTICES

Viviano Macaroni Co.

Subpart—Discriminating in price under section 2, Clayton Act—Price discrimination under 2(a): § 13.785 *Terms and conditions.* Discriminating in price under section 2, Clayton Act—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses;* § 13.825 *Allowances for services or facilities.* Discriminating in price under section 2, Clayton Act—Furnishing services or facilities for processing, handling, etc. under 2(e): § 13.845 *Share of advertising expenses.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13) [Cease and desist order, Viviano Macaroni Co., Carnegie, Pa., Docket 8666, Feb. 19, 1968]

In the Matter of Viviano Macaroni Co., a Corporation

Order requiring a Carnegie, Pa., manufacturer of macaroni and other food products to cease discriminating in prices, promotional allowances and services in sales to competing retailers who resell its products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Viviano Macaroni Co., a corporation, and its officers, representatives, agents, and employees, directly, indirectly, or through any corporate or other device, in or in connection with the sale of its macaroni products in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

I. Discriminating directly, or indirectly, in the price of such products of like grade and quality by selling to any purchaser at net prices higher than the net price charged any other purchaser

who competes in the resale and distribution of respondent's products with the purchaser, or with customers of the purchaser, paying the higher price. "Net price" as used in this order shall mean the ultimate cost to the purchaser, and, for purposes of determining such cost, there shall be taken into account all rebates, allowances, commissions, discounts, credit arrangements, terms and conditions of sale, and other forms of direct and indirect price reductions, by which such ultimate cost to the purchaser is affected.

II. Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondent as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the offering for sale, sale or distribution of respondent's products, unless such payment or consideration is made available on proportionally equal terms to all other customers competing in the distribution of such products.

III. Furnishing, contracting to furnish, or contributing to the furnishing of services or facilities in connection with the handling, processing, sale, or offering for sale of respondent's products to any purchaser of such products bought for resale, when such services or facilities are not accorded on proportionally equal terms to all other purchasers who resell such products in competition with any purchaser who receives such services or facilities.

It is further ordered, That, in addition to and apart from the provisions of the preceding paragraphs, if respondent at any time after the effective date of this order:

1. Grants or permits any customer to take delivery of, or make payments for, its merchandise on a basis other than regularly published prices, freight prepaid; or

2. Grants or permits any customer to submit proof of performance, or receive payment, for any advertising or other promotional allowance on a basis, or on terms, other than those set forth in respondent's announcements to customers of said promotion, or customarily observed by respondent in such promotions, in any locality; or

3. Grants or permits any customer to make payments for cash discount purposes on terms and conditions other than those contained in respondent's published price lists, or customarily observed by respondent, in any locality;

respondent shall promptly notify all other customers who compete, or whose customers compete, with the customer so granted or permitted, setting forth in writing the details and provisions thereof, and respondent shall allow, and the written notification shall contain a statement that such customers may, at their option, elect such provisions, terms, or conditions on an equal basis. In no event, however, shall respondent pay to any customer an allowance for freight, or an allowance for any differing methods of sale or delivery, which exceeds any cost savings to respondent resulting from the differing methods or quantities in which respondent's products are sold or delivered to such customer.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the provisions in the order set forth herein.

By the Commission, Commissioner Elman dissenting, and Commissioner Nicholson not participating for the reason oral argument was heard prior to his appointment to the Commission.

Issued: February 19, 1968.

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

[F.R. Doc. 68-3514; Filed, Mar. 22, 1968; 8:45 a.m.]

PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

Correction

In F.R. Doc. 68-3360 appearing at page 4718 in the issue for Tuesday, March 19, 1968, make the following changes:

1. In § 500.2(i), line 1, the term should read "random package".

2. In § 500.18(b)(4), line 6, "100" should read "400".

3. In § 500.25, paragraph (a)(3) should read: "(3) if they are supported by reasonable grounds which, if valid and factually supported, may be adequate to justify the relief sought."

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-339; Order 361]

PART 159—FEES FOR CERTAIN APPLICATIONS FILED PURSUANT TO THE NATURAL GAS ACT

Exemption of Certain Required Additional Fees From Payment

Correction

In F.R. Doc. 68-3264, appearing at page 4655 in the issue of Tuesday, March 19, 1968, make the following change: In paragraph (B), line 3, the reference to "23 U.S.C. 483a" should read "31 U.S.C. 483a".

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 689—SUGAR MANUFACTURING INDUSTRY IN PUERTO RICO

Wage Rates

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208), and by means of Administrative Order No. 600 (33 F.R. 1019), the Secretary of Labor appointed and convened Review Committee No. 11, referred to it the question of the minimum wage rate or rates to be paid under section 6(c)(2)(C) of the Act, in lieu of those provided by section 6(c)(2)(B) of the Act, to employees in the sugar manufacturing industry in Puerto Rico, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee filed with the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 6(c)(2)(C) and section 8 of the Act, as amended, Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Order No. 19-67 of the Secretary of Labor (32 F.R. 12980), the recommendations of Review Committee No. 11 are hereby published in this order. In 29 CFR 689.2 the heading for paragraph (a) and subparagraph (1) of paragraph (a) are revised, effective April 2, 1968, to read as follows:

§ 689.2 **Wage rates.**

* * * * *

(a) *Pre-1966 coverage classification.* (1) The minimum wage for this classification is $1.275 an hour.

* * * * *

(Secs. 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 206, 208)

Signed at Washington, D.C., this 18th day of March 1968.

CLARENCE T. LUNDQUIST, *Administrator, Wage and Hour and Public Contracts Divisions.*

[F.R. Doc. 68-3529; Filed, Mar. 22, 1968; 8:47 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 68-4]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

LAKE MEAD AT SOUTH BAY, ARIZ.

1. The U.S. Department of the Interior, National Park Service, Lake Mead Recreation Area, Boulder City, Nev., requested the establishment of a special anchorage area in South Bay, Lake Mead, Ariz. A public notice dated October 20, 1967, was issued by the Commander, 11th Coast Guard District, describing the proposed special anchorage area. All known interested parties

were notified and no objection was received. Therefore, the request is granted and the establishment of a special anchorage area as described in 33 CFR 110.127(n) below is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interest.

2. The purpose of this document is to establish and describe a special anchorage area in Lake Mead, Ariz., as described in 33 CFR 110.127(n) below, wherein vessels not more than 65 feet in length, when at anchor in such special anchorage area, shall not be required to carry or exhibit anchor lights or shapes (day signals). In this anchorage area, fixed moorings, piles, or stakes are prohibited. Single and fore-and-aft temporary moorings will be allowed. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the Superintendent, Lake Mead Recreation Area, National Park Service.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(g)(1), the text of § 110.127 is amended by inserting after paragraph (m) and before the note a new paragraph (n) to read as follows and to become effective on and after 30 days after the date of publication of this document in the FEDERAL REGISTER:

§ 110.127 Lake Mohave and Lake Mead, Nevada and Arizona.

* * * * *

(n) *South Bay, Ariz.* That portion of Lake Mead enclosed by the shore and a line connecting the following points, excluding two 100 feet wide fairways, extending westerly and northwesterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area.

Latitude	*Longitude*
"a" 36°06'26"	"a" 114°06'13"
"b" 36°05'34"	"b" 114°06'34"
"c" 36°05'34"	"c" 114°06'13"

* * * * *

(R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322; 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: March 18, 1968.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 68-3538; Filed, Mar. 22, 1968; 8:47 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 181—STATEMENT OF POLICIES FOR SCHOOL DESEGREGATION PLANS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

CROSS REFERENCE: For a document superseding Part 181 of Chapter I of Title 45, see F.R. Doc. 68-3485, Department of Health, Education, and Welfare, Office for Civil Rights, in the Notices section of this issue, *infra*.

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 324—PUBLIC USE OF OLD HICKORY RESERVOIR AREA, TENN.

PART 325—PUBLIC USE OF CHEATHAM RESERVOIR AREA, TENN.

PART 326—PUBLIC USE OF CERTAIN NAVIGABLE RESERVOIR AREAS

Barkley Dam and Lake Barkley Area, Cheatham Reservoir Area, and Old Hickory Reservoir Area

The rules and regulations governing public use of Cheatham Reservoir Area, Tenn., Part 325, and Old Hickory Reservoir Area, Tenn., Part 324, prescribed pursuant to section 4 of the Flood Control Act of 1944, as amended (58 Stat. 889), and published in the FEDERAL REGISTER, dated April 5, 1956, and August 24, 1955, are rescinded. The Secretary of the Army having determined that the use of Cheatham Reservoir Area, Old Hickory Reservoir Area, and Barkley Dam and Lake Barkley Area by the general public for boating, swimming, bathing, fishing, and other recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the reservoirs for their primary purposes, hereby prescribed rules and regulations for their public use, pursuant to the provisions of section 4 of the Flood Control Act of 1944, as amended (76 Stat. 1195), adding the reservoirs to those listed in §§ 326.1 and 326.3, as follows:

Parts 324 and 325 are revoked and Part 326 is amended as follows:

§ 326.1 Areas covered.

* * * * *

(c) * * *

KENTUCKY

Barkley Dam and Lake Barkley Area, Cumberland River.

* * * * *

TENNESSEE

Barkley Dam and Lake Barkley Area, Cumberland River.

Cheatham Reservoir Area, Cumberland River.

Old Hickory Reservoir Area, Cumberland River.

* * * * *

§ 326.3 Boats, private.

* * * * *

(b) * * *

KENTUCKY

Barkley Dam and Lake Barkley Area, Cumberland River.

* * * * *

TENNESSEE

Barkley Dam and Lake Barkley Area, Cumberland River.

Cheatham Reservoir Area, Cumberland River.

Old Hickory Reservoir Area, Cumberland River.

* * * * *

[Regs., Mar. 6, 1968, ENGCW-OM] (Sec. 4, 58 Stat. 889, as amended; 16 U.S.C. 460d)

For the Adjutant General.

J. W. HURD,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 68-3506; Filed, Mar. 22, 1968; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL

Subpart 9-1.1—Procurement Regulations

Subpart 9-1.3—General Policies

MISCELLANEOUS AMENDMENTS

1. In § 9-1.104, *Applicability*, paragraph (c) is revised by adding under the list of AECPR the following item: "9-1.302-1(b) * * * Procurement from local trade area sources." As amended, 9-1.104(c) reads as follows:

§ 9-1.104 Applicability.

* * * * *

(c) The following sections and subparts of the Federal Procurement Regulations Part 1 and this AECPR Part 1 constitute specific provisions which the contracting officer shall bring to the attention of cost-type contractors in the development of statements of contractor procurement practices as constituting areas which require appropriate treatment in order to carry out the basic AEC procurement policy set forth in AECPR 9-1.5203.

Section or subpart	*Subject*
FPR:	
1-1.305	Specifications.
1-1.306	Standards.
1-1.307	Purchase descriptions.
1-1.310	Responsible prospective contractor.
1-1.316	Time of delivery or performance.
1-1.5	Contingent Fees.
1-1.6	Debarred, Suspended, and Ineligible Bidders.
1-1.7	Small Business Concerns.
1-1.8	Labor Surplus Area Concerns.
1-1.9	Reporting Possible Anti-trust Violations.
1-1.10	Publicizing Procurement Actions.
1-1.11	Qualified Products.
1-1.16	Reports of Identical Bids.

AECPR:	
9–1.302–1(b)	Procurement from local trade area sources.
9–1.305–1	Mandatory use of Federal Specifications.
9–1.310	Responsible prospective contractors.
9–1.350	AEC Specifications and Standards.
9–1.354	Prebidding and preproposal conferences.
9–1.355	Combinations of architect-engineer and construction contracts.
9–1.5	Contingent Fees.
9–1.6	Debarred, Suspended, and Ineligible Bidders.
9–1.7	Small Business Concerns.
9–1.8	Labor Surplus Area Concerns.
9–1.9	Reporting Possible Antitrust Violations.
9–1.11	Qualified Products.
9–1.50	Change Orders, Equitable Adjustments, and Supplemental Agreements for Fixed-Price Contracts.
9–1.54	General Policy for the Avoidance of Organizational Conflicts of Interest.

2. In § 9–1.302–1, *General*, the present paragraph is lettered (a) and new paragraph (b) is added. As amended, § 9–1.302–1 reads as follows:

§ 9–1.302–1 General.

(a) *Procurement from Government sources.* Procurement of certain supplies and services may be effected by orders on Government sources referred to in FPR 1–1.302. It is the policy of the AEC that such methods of procurement be utilized to the fullest extent practicable, in accordance with applicable laws and regulations. Procurement by the AEC under the Economy Act of June 30, 1932, as amended (31 U.S.C. 686), shall conform to the requirements of that Act and applicable regulations of the General Accounting Office. Procedures to be followed in procuring from Government sources are set forth in AECPR 9–5.

(b) *Procurement from local trade area sources.* In soliciting quotations for small purchases, maximum utilization should be made of the provisions in FPR 1–3.603–1(b) with respect to sources within the trade area in which the procuring activity is located. Regardless of the size of the procurement, however, qualified sources of supply in the local trade area always should be considered.

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 18th day of March 1968.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 68–3505; Filed, Mar. 22, 1968; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4380]

[Wyoming 2928]

WYOMING

Withdrawal for Proposed Reclamation Project

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

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the proposed Polecat Bench Area, Shoshone Extension Unit, Big Horn Division, Missouri River Basin Project, Wyo.:

SIXTH PRINCIPAL MERIDIAN

T. 56 N., R. 98 W.,
Sec. 18, lot 6.
T. 57 N., R. 98 W.,
Sec. 4, SE¼SW¼;
Sec. 18, lots 3 and 4.
T. 58 N., R. 98 W.,
Sec. 28, NW¼ and S½;
Sec. 34, N½.
T. 56 N., R. 99 W.,
Sec. 5, lots 2 to 7, inclusive, and SW¼SE¼;
Sec. 6, lots 1 to 6, inclusive, lots 11 to 14, inclusive, and E½SW¼.
T. 57 N., R. 99 W.,
Sec. 10, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 14, W½;
Sec. 25, SW¼;
Sec. 26, SW¼SW¼;
Sec. 27, S½N½ and S½;
Sec. 28, S½;
Sec. 29, SE¼SW¼ and S½SE¼;
Sec. 30, SE¼;
Secs. 31 and 32;
Sec. 33, E½;
Sec. 34, NE¼ and N½SE¼;
Sec. 35, NE¼, W½NW¼, SE¼NW¼, and S½.
T. 56 N., R. 100 W.,
Sec. 1;
Sec. 2, lots 1 to 4, inclusive, lots 7 to 10, inclusive, and SE¼;
Sec. 3, lots 1, 2, 7, 8, 9, 10, and 11, NE¼SW¼ and SE¼;
Sec. 13, E½SE¼;
Sec. 22, NW¼NE¼, S½NE¼, SE¼NW¼, and E½SW¼;
Sec. 27, NW¼;
Sec. 28, SE¼;
Sec. 33, SE¼NE¼ and S½;
Sec. 34;
Sec. 35, lots 1 to 5, inclusive.

The areas described aggregate 9,347.35 acres in Park County.

2. The use and administration of the lands affected by this order will become subject to the provisions of the reclamation laws (act of June 17, 1902, supra, as amended and supplemented), including the use of the lands under lease, license, or permit, at such time as the Polecat Bench Area, Shoshone Extension Unit, Big Horn Division Project is authorized by the Congress.

3. Pending authorization of the project, this withdrawal does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or the disposal of their mineral or vegetative resources other than under the mining laws, subject to the condition that such use or disposition will not be inconsistent with the reclamation laws and the purpose for which the lands are withdrawn.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

MARCH 19, 1968.

[F.R. Doc. 68–3517; Filed, Mar. 22, 1968; 8:46 a.m.]

[Public Land Order 4381]

[Sacramento 079634]

CALIFORNIA

Reservoir Site Restoration No. 42; Powersite Cancellation No. 231; Partial Revocation of Certain Power Withdrawals

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority contained in the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 1950 Reorganization Plan No. 3 (64 Stat. 1262; 5 U.S.C. 133z–15, note), and in section 24 of the act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, it is ordered as follows:

1. The Executive Orders of August 22, 1919, and June 8, 1926, creating Powersite Reserve No. 710 and Reservoir Site Reserve No. 17 respectively, and the departmental order of March 8, 1932, creating Powersite Classification No. 266, are hereby revoked so far as they affect the following described lands:

MOUNT DIABLO MERIDIAN

T. 1 S., R. 14 E.,
Sec. 2, lot 5.

Containing 43.36 acres in Tuolumne County. The land lies above the 845-foot contour on the east side of Woods Creek about 3 miles upstream from its confluence with the Tuolumne River.

2. Until 10 a.m., on September 17, 1968, the State of California shall have a preferred right of application to select the lands as provided by R.S. 2276 as amended (43 U.S.C. 852). After that time the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and to existing orders of classification. All valid applications received at or prior to 10 a.m., on September 17, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The State has waived the preference right of application afforded it by section 24 of the Federal Power Act (16 U.S.C. 818), as amended.

3. The public land has been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws subject to the provisions of the act of August 11, 1955 (69 Stat. 681; 30 U.S.C. 621).

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, Calif.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

MARCH 19, 1968.

[F.R. Doc. 68-3518; Filed, Mar. 22, 1968; 8:46 a.m.]

[Public Land Order 4382]

[Oregon 2059]

OREGON

Revocation of National Forest Administrative Site Withdrawals

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The departmental orders of December 20, 1907, April 30, 1908, and August 27, 1908, withdrawing national forest lands as administrative sites, are hereby revoked so far as they affect the following described lands:

WILLAMETTE MERIDIAN

ROGUE RIVER NATIONAL FOREST

Brown's Cabin Administrative Site

T. 30 S., R. 3 E.,
Sec. 23, metes and bounds ($W\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, and $N\frac{1}{2}S\frac{1}{2}$).

Mill Creek Administrative Site

T. 31 S., R. 3 E.,
Sec. 33, $NW\frac{1}{4}SE\frac{1}{4}$.

Mosquito Administrative Site

T. 36 S., R. 4 E.,
Sec. 7, metes and bounds ($E\frac{1}{2}NW\frac{1}{4}$ and $SW\frac{1}{4}NE\frac{1}{4}$).

The areas described aggregate 274.39 acres in Jackson County.

2. At 10 a.m., on April 24, 1968, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

MARCH 19, 1968.

[F.R. Doc. 68-3519; Filed, Mar. 22, 1968; 8:46 a.m.]

[Public Land Order 4383]

[Sacramento 1179]

CALIFORNIA

Reservoir Site Restoration No. 47; Revocation of Reservoir Site Reserve No. 15

By virtue of the authority contained in the act of October 2, 1888 (25 Stat. 526; 43 U.S.C. 662), as amended, it is ordered as follows:

1. The departmental order of August 18, 1894, withdrawing the following described lands in California for reservoir site purposes, is hereby revoked:

MOUNT DIABLO MERIDIAN

PLEASANT VALLEY RESERVOIR

T. 9 N., R. 20 E.,
Sec. 5, lots 3, 4, and $SW\frac{1}{4}NW\frac{1}{4}$;
Sec. 6, $S\frac{1}{2}NE\frac{1}{4}$.
T. 10 N., R. 20 E.,
Sec. 32, $SE\frac{1}{4}SW\frac{1}{4}$ and $W\frac{1}{2}SE\frac{1}{4}$.

The areas described aggregate 321.69 acres in Alpine County. The $SE\frac{1}{4}SW\frac{1}{4}$, sec. 32, T. 10 N., R. 20 E., MDM, is in the Toiyabe National Forest. The remaining lands are patented.

2. At 10 a.m., on April 24, 1968, the national forest land shall be open to such forms of disposition as may by law be made of such land.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

MARCH 19, 1968.

[F.R. Doc. 68-3520; Filed, Mar. 22, 1968; 8:46 a.m.]

[Public Land Order 4384]

[Colorado 0125239]

COLORADO

Withdrawal for Reclamation Project

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

Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Rifle Gap Dam and Reservoir of the Silt Project:

SIXTH PRINCIPAL MERIDIAN

T. 5 S., R. 93 W.,
Sec. 1, $S\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$.

The area described contains 20 acres in Garfield County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

MARCH 19, 1968.

[F.R. Doc. 68-3521; Filed, Mar. 22, 1968; 8:46 a.m.]

[Public Land Order 4385]

[Utah 1361]

UTAH

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, including section 8 of the act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), it is ordered as follows:

Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Tyzack Dam and Reservoir of the Central Utah Project:

SALT LAKE MERIDIAN

T. 3 S., R. 22 E.,
Sec. 3, $S\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$;
Sec. 4, $SE\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}N\frac{1}{2}N\frac{1}{2}SW\frac{1}{4}$;
Sec. 5, $N\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$;
Sec. 9, $N\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$.

The areas described aggregate 230 acres in Uintah County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

MARCH 19, 1968.

[F.R. Doc. 68-3522; Filed, Mar. 22, 1968; 8:46 a.m.]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Ch. I]

INTERNATIONAL MAIL

Postage Rates and Fees

The Department proposes to adopt certain changes in international postage rates, effective June 1, 1968. The proposed changes are designed mainly to bring these rates into line with higher rates which became effective in the domestic mail service on January 7, 1968.

Although the proposed rates relate to proprietary and foreign affairs functions of the Government, it is the desire of the Postmaster General voluntarily to observe the rule making requirements of the Administrative Procedure Act (5 U.S.C. 553) in order that patrons of the Postal Service may have an opportunity to present written data, views, and arguments concerning the proposed rates. Accordingly, such written comments may be submitted to the Director, Office of Postal Economics, Bureau of Finance and Administration, Post Office Department, Washington, D.C. 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

The proposed rates are as follows:

Classification	Countries	Rates
Printed matter: Books [1]	Countries of the Postal Union of the Americas and Spain, except Spain and Spanish possessions.	14 cents first 10 ounces; 1 cent each additional 2 ounces.
	Other countries	14 cents first 10 ounces; 1½ cents each additional 2 ounces.
Samples of merchandise	Canada and Mexico	6 cents first 2 ounces; 2 cents each additional ounce; minimum charge 12 cents.
Packages of merchandise	Canada	6 cents first 2 ounces; 2 cents each additional ounce; minimum charge 12 cents.

[1] Sheet music, now in the book-rate category, will be rated as general printed matter.

The appropriate amendments necessary to codify any changes in rates into Title 39, Code of Federal Regulations, will be published in the FEDERAL REGISTER if, after consideration of all relevant comments received within the specified time, the Department adopts any changes in rates pursuant to this proposal.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

TIMOTHY J. MAY,
General Counsel.

MARCH 21, 1968.

[F.R. Doc. 68-3597; Filed, Mar. 22, 1968; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Part 301]

CEREAL LEAF BEETLE

Proposed Quarantine in Illinois and Certain Other States

Notice is hereby given in accordance with sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), that the Administrator of the Agricultural Research Service has information that the cereal leaf beetle, *Oulema melanopa*, a dangerous insect injurious to small grains, corn, and grasses has been found to exist in certain parts of Illinois, Indiana, Michigan, Pennsylvania, and Ohio, and proposes to quarantine such States and to regulate the movement therefrom of (1) small grains; (2) corn; (3) grass and forage seed; (4) hay and straw; (5) sod; (6) used harvesting machinery; (7) fodder and plant litter; and (8) any other products, articles, or means of conveyance of any character whatsoever when it is determined by an inspector that they present a hazard of spread of cereal leaf beetle and the person in possession thereof has been so notified.

If it is decided that a Federal quarantine and regulations should be established, most of the restrictions would apply to the movement of regulated articles from regulated areas. Regulated areas would be restricted to portions of a State in which infestations have been found or which it is deemed necessary to regulate because of their proximity to infestation provided that less than an entire State would be designated as a regulated area only if the State is undertaking sufficient quarantine action to prevent the intrastate spread of the cereal leaf beetle and if the regulations of less than an entire State would otherwise be sufficient to prevent the interstate spread of the pest. Effective and practical treatment or other procedures have been developed to allow the interstate movement of regulated articles from regulated areas. The only restriction which would apply to the interstate movement of regulated articles from nonregulated portions of the quarantined State would relate to proof of origin of the regulated articles and to safeguarding the articles from infestation if they traverse a regulated area.

A public hearing to consider the above proposals will be held before a representative of the Agricultural Research Service in Room 1665—Federal Building, U.S. Courthouse, 219 South Dearborn Street, Chicago, Ill. 60604 at 10 a.m., c.s.t., on April 16, 1968, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals.

Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, on or before April 16, 1968, or with the presiding officer at the hearing. All written submissions received pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 18th day of March 1968.

[SEAL] R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 68-3542; Filed, Mar. 22, 1968; 8:47 a.m.]

[7 CFR Part 301]

GYPSY MOTH AND BROWN-TAIL MOTH

Proposed Quarantine in Pennsylvania

Notice of public hearing on extending quarantine to the State of Pennsylvania and notice of rule making relating to the amendment of such quarantine and supplemental regulations:

The Administrator of the Agricultural Research Service has information that the gypsy moth, *Porthetria dispar*, a dangerous insect injurious to forest and shade trees which previously has been found to exist in certain parts of the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, has been discovered in certain parts of the State of Pennsylvania.

Notice is hereby given that it is proposed under the authority of sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), to quarantine the State of Pennsylvania and to regulate, under the gypsy moth and brown-tail moth quarantine and supplemental regulations (7 CFR 301.45, 301.45-1 et seq.), the interstate movement from these States into or through any other State, Territory, or District of the United States of (1) trees, shrubs with persistent woody stems, and

parts of such trees and shrubs; (2) timber and timber products; (3) stone and quarry products; and (4) any other products, articles, or means of conveyance of any character whatsoever when it is determined by an inspector that they present a hazard of spread of gypsy moth and the person in possession thereof has been so notified.

Further, notice is hereby given under the administrative procedure provisions of 5 U.S.C. 553 that the Agricultural Research Service proposes to amend the gypsy moth and brown-tail moth quarantine and supplemental regulations thereunder (7 CFR 301.45, 301.45–2a) by adding Pennsylvania to the States designated as quarantined and specifying regulated areas in said State for purposes of the regulations, if it is determined that such action is necessary.

Most of the restrictions apply to the movement of regulated articles from regulated areas. Regulated areas are restricted to portions of the State in which infestations have been found or which it is deemed necessary to regulate because of their proximity to infestation provided that less than an entire State would be designated as a regulated area only if the State is undertaking sufficient quarantine action to prevent the intrastate spread of the gypsy moth and if the regulation of less than an entire State would otherwise be sufficient to prevent the interstate spread of the pest. Effective and practical treatment or other procedures have been developed to allow the interstate movement of regulated articles from regulated areas. The only restriction which would apply to the interstate movement of regulated articles from nonregulated portions of the quarantined State relate to proof of origin of the regulated articles and to safeguarding the articles from infestation if they traverse a regulated area.

A public hearing to consider the above proposals will be held before a representative of the Agricultural Research Service in Room 1665—Federal Building, U.S. Courthouse, 219 South Dearborn Street, Chicago, Ill. 60604, at 2 p.m., c.s.t., on April 16, 1968, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals.

Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, on or before April 16, 1968, or with the presiding officer at the hearing. All written submissions received pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 18th day of March 1968.

[SEAL] R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 68–3543; Filed, Mar. 22, 1968; 8:48 a.m.]

[7 CFR Part 301]

JAPANESE BEETLE

Proposed Quarantine in Alabama and Certain Other States

Notice of public hearing on extending quarantine to the States of Alabama, Illinois, Michigan, Missouri, and Tennessee and notice of rule making relating to the amendment of such quarantine and supplemental regulations:

The Administrator of the Agricultural Research Service has information that the Japanese beetle, *Popillia japonica*, a dangerous insect injurious to cultivated crops, lawns and pastures, which previously has been found to exist in certain parts of the States of Connecticut, Delaware, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, has been discovered in certain parts of the States of Alabama, Illinois, Michigan, Missouri, and Tennessee.

Notice is hereby given that it is proposed under the authority of sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), to quarantine the States of Alabama, Illinois, Michigan, Missouri, and Tennessee and to regulate, under the Japanese beetle quarantine and supplemental regulations (7 CFR 301.48, 301.48–1 et seq.), the interstate movement from these States into or through any other State, Territory, or District of the United States of (1) soil, compost, decomposed manure, humus, muck and peat, separately or with other things; (2) plants with roots; (3) grass sod; (4) plant crowns and roots for propagation; (5) true bulbs, corms, rhizomes, and tubers, of ornamental plants when freshly harvested or uncured; (6) used mechanized soil-moving equipment; and (7) any other products, articles, or means of conveyance, of any character whatsoever, when it is determined by an inspector that they present a hazard of spread of Japanese beetle and the person in possession thereof has been so notified.

Further, notice is hereby given under the administrative procedure provisions of 5 U.S.C. 553 that the Agricultural Research Service proposes to amend the Japanese beetle quarantine and supplemental regulations thereunder (7 CFR 301.48, 301.48–2a) by adding Alabama, Illinois, Michigan, Missouri, and Tennessee, to the States designated as quarantined and specifying regulated areas in said States for purposes of the regulations, if it is determined that such action is necessary.

Most of the restrictions apply to the movement of regulated articles from regulated areas. Regulated areas are restricted to portions of the State in which infestations have been found or which it is deemed necessary to regulate because of their proximity to infestation provided that less than an entire State would be designated as a regulated area only if the State is undertaking sufficient quarantine action to prevent the intrastate spread of the Japanese beetle and if the regulation of less than an entire State would otherwise be sufficient to prevent the interstate spread of the pest. Effective and practical treatment or other procedures have been developed to allow the interstate movement of regulated articles from regulated areas. The only restriction which would apply to the interstate movement of regulated articles from nonregulated portions of the quarantined State relate to proof of origin of the regulated articles and to safeguarding the articles from infestation if they traverse a regulated area.

A public hearing to consider the above proposals will be held before a representative of the Agricultural Research Service in Room 1665—Federal Building, U.S. Courthouse, 219 South Dearborn Street, Chicago, Ill. 60604 at 10 a.m., c.s.t., on April 17, 1968, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals.

Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, on or before April 17, 1968, or with the presiding officer at the hearing. All written submissions received pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 18th day of March 1968.

[SEAL] R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 68–3544; Filed, Mar. 22, 1968; 8:48 a.m.]

[7 CFR Part 301]

SOYBEAN CYST NEMATODE

Proposed Quarantine in Indiana, Florida, and Louisiana

Notice of public hearing on extending quarantine to the States of Indiana, Florida, and Louisiana, and notice of rule making relating to the amendment of such quarantine and supplemental regulations:

The Administrator of the Agricultural Research Service has information that the soybean cyst nematode, *Heterodera glycines* Ichinohe, which causes a serious disease of soybeans and other plants, and which previously has been found to exist in certain parts of the States of Arkansas, Illinois, Kentucky, Mississippi, Missouri, North Carolina, Tennessee, and Virginia, has been discovered in certain parts of the States of Indiana, Florida, and Louisiana.

Notice is hereby given that it is proposed under the authority of sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the

Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), to quarantine the States of Indiana, Florida, and Louisiana, and to regulate, under the soybean cyst nematode quarantine and supplemental regulations (7 CFR 301.79, 301.79–1 et seq.), the interstate movement from these States into or through any other State, Territory, or District of the United States of (1) soil, compost, decomposed manure, humus, muck and peat, separately or with other things; (2) plants with roots; (3) grass sod; (4) plant crowns and roots for propagation; (5) true bulbs, corms, rhizomes, and tubers of ornamental plants; (6) root crops; (7) peanuts in shells and peanut shells; (8) soybeans; (9) hay, straw, fodder, and plant litter of any kind; (10) seed cotton; (11) ear corn; (12) used crates, boxes, burlap bags, cotton picking sacks, and other used farm products containers; (13) used farm tools and implements; (14) used mechanized cultivating equipment and used harvesting machinery; (15) used mechanized soil-moving equipment; and, (16) any other products, articles, or means of conveyance, of any character whatsoever, when it is determined by an inspector that they present a hazard of spread of soybean cyst nematode and the person in possession thereof has been so notified.

Further, notice is hereby given under the administrative procedure provisions of 5 U.S.C. 553 that the Agricultural Research Service proposes to amend the soybean cyst nematode quarantine and supplemental regulations thereunder (7 CFR 301.79, 301.79–2a) by adding Indiana, Florida, and Louisiana, to the States designated as quarantined and specifying regulated areas in said States for purposes of the regulations, if it is determined that such action is necessary.

Most of the restrictions apply to the movement of regulated articles from regulated areas. Regulated areas are restricted to portions of the State in which infestations have been found or which it is deemed necessary to regulate because of their proximity to infestation provided that less than an entire State would be designated as a regulated area only if the State is undertaking sufficient quarantine action to prevent the intrastate spread of the soybean cyst nematode and if the regulation of less than an entire State would otherwise be sufficient to prevent the interstate spread of the pest. Effective and practical treatment or other procedures have been developed to allow the interstate movement of regulated articles from regulated areas. The only restriction which would apply to the interstate movement of regulated articles from nonregulated portions of the quarantined State relate to proof of origin of the regulated articles and to safeguarding the articles from infestation if they traverse a regulated area.

A public hearing to consider the above proposals will be held before a representative of the Agricultural Research Service in Room 1665—Federal Building, U.S. Courthouse, 219 South Dearborn Street, Chicago, Ill. 60604, at 2 p.m., c.s.t., on April 17, 1968, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals.

Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, on or before April 17, 1968, or with the presiding officer at the hearing. All written submissions received pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 18th day of March 1968.

[SEAL] R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 68-3545; Filed, Mar. 22, 1968; 8:48 a.m.]

Consumer and Marketing Service

[7 CFR Part 1033]

[Docket No. AO–166–A35]

MILK IN GREATER CINCINNATI MARKETING AREA

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

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

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Cincinnati, Ohio, on August 23–24, 1967, pursuant to notice thereof issued August 10, 1967 (32 F.R. 11737).

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

1. Modification of pooling requirements for plants;
2. Revision of diversion provisions, including point of pricing for diverted milk;
3. Modification of location differentials;
4. Revision of the provisions for payments to producers;
5. Clarification and revision of transfer provisions; and
6. Revision of a number of administrative provisions of the order, including certain conforming and clarification changes in definitions and other provisions.

FINDINGS AND CONCLUSIONS

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

1. *Plant pooling requirements.* The pooling requirements for distributing plants and supply plants should be revised.

Pool distributing plant. A distributing plant, to qualify as a pool plant, should have total route disposition of at least 50 percent of its receipts of Grade A milk from dairy farmers, from other pool plants which are assigned to Class I milk, from nonpool plants (excluding receipts of bulk fluid milk from other plants as Class II milk), and from cooperatives as handlers. A distributing plant meeting the 50 percent distributing requirement in the previous month should continue as a pool plant in the current month even if such percentage is not met in such month. Also, the plant should have at least 15 percent of its total monthly route disposition within the marketing area, excluding from such percentage any receipts from other plants of packaged fluid milk products priced as Class I milk under this or any other Federal order.

Currently, a distributing-type plant qualifies either by the fact of its location in the marketing area or, if located outside the marketing area, by disposing of not less than 10 percent of its total route disposition during the month on routes operated wholly or partially within the marketing area.

A major cooperative proposed that a distributing plant's total route disposition should amount to at least 60 percent of total receipts from producers, supply plants, and cooperatives as handlers. A distributing plant meeting the 60 percent requirement for each month of September through March would be permitted to qualify on a minimum route disposition of 50 percent in April through August.

It was the cooperative's position that, under the current provisions, certain distributing plants have acquired supplies solely for their own manufacturing purposes or to sell to others for manufacturing rather than to make such supplies available for fluid use. The current

pooling standards for distributing plants thus serve, they contended, to dissipate returns from Class I sales to supplies not available for Class I use and that this practice increases the difficulty of acquiring an economical supply for the fluid market.

The five largest handlers on the market supported the cooperative's proposal to increase the pooling requirements for distributing plants. These handlers stated the need to minimize the amount of producer milk utilized for manufacturing purposes through more definitive pooling requirements. There was no opposition to stricter requirements.

One handler suggested that the pooling requirements for distributing plants should not be lower than the requirements for a distributing plant to pool under the Miami Valley, Ohio, order. This handler specifically proposed that route disposition not less than 50 percent of plant receipts, as used in the Miami Valley and many other orders, would be an appropriate minimum.

It is important to establish minimum performance standards for distributing plants which serve the market in a way, or to a degree, that they should be included in the marketwide pool which provides the means of paying uniform returns to all producers in the market. This is one of the essential means of assuring the market of an adequate and dependable supply of milk. Otherwise the proceeds of the higher Class I price for milk sold in the fluid market would be dissipated on milk acquired by handlers primarily for manufacturing purposes and not go to the primary purpose of assuring an adequate and dependable supply for the fluid market. Having specific marketing performance standards will serve also to minimize the effects of regulation on handlers who have only a minor proportion of their distribution in the regulated market.

To qualify as a pool plant, a distributing plant should be required to meet performance standards as to both the proportion of its supply used in fluid disposition and its disposition in the marketing area.

With the minimal pooling requirements of the past certain handlers have accumulated supplies primarily intended for Class II use either in the plant or by transfer to some other plant with manufacturing facilities. Such supplies have not been generally available for Class I use in the market. This has tended to depress the blend prices to producers at all plants. At the same time other handlers have found it necessary to reach long distances, and at higher cost, for supplies to meet the increasing needs of the Class I market. This situation is encouraged by the minimal pooling requirements in effect and warrants increasing the requirements in the interest of promoting a dependable supply and a better allocation of available milk.

To be considered primarily engaged in the fluid milk business a plant should use at least 50 percent of its Grade A receipts for Class I purposes. Most plants in this market have well in excess of 50 percent utilization of producer receipts in Class I.

The cooperative suggested, in its brief, that monthly performance requirements for each month be based on a "moving average" percentage of producer receipts used in Class I milk. In support of this recommendation, the cooperative indicated that this would give needed flexibility in the requirement, in view of the numerous transfers and diversions of milk among plants in this market. In the absence of such flexibility movements of supplies among plants conceivably could result in loss of pooling status for a plant due to clerical or other error.

The flexibility recommended by the cooperative can be provided in a simpler way by permitting a distributing plant to maintain pool status for a given month if the plant has met the 50 percent performance requirement in either the current or immediately preceding month and it meets, for each month, the minimum in-area route distribution requirement (i.e., 15 percent of total route disposition from such plant), which is discussed below. A distributing plant which has sufficient Class I sales in the marketing area to qualify as a pool plant may have difficulty in meeting the 50 percent utilization requirement for a particular month because of minor changes in receipts or Class I sales or through administrative error. This basis of qualification will minimize occasions of inadvertent loss of pool status. Also, it will allow reasonable time for other handlers to make adjustments in their purchase arrangements with any plant which appears likely to fail in its qualification as a pool plant.

The adoption of such stricter distributing plant requirements should accommodate most existing plant operations in the market. Adjustments in the operations of a few plants may be necessary, however. These would be the plants where a relatively high percentage of producer receipts is used for manufacturing purposes either in the plant or received and shipped to other plants for manufacture. It should be provided, therefore, that distributing plants presently qualified for pooling be permitted to continue pool plant status for 3 months after the adoption of these provisions. This is a reasonable period to make necessary supply or utilization adjustments to meet the more stringent performance requirements.

The 60 percent minimum requirement for certain months proposed by the cooperative association would make difficult the qualification of six plants presently regulated by the order, two of which are plants of long standing in the market. The latter plants were not indicated as engaged in the handling of large supplies of milk solely for manufacturing purposes. The 60 percent requirement could result in a plant with more of its sales in this market being subject to regulation under another order. Most nearby orders provide for a 50 percent requirement for pooling of a distributing plant. For these reasons, the proposed 60 percent requirement is denied.

Proponent cooperative's proposal for minimum in-area route disposition was 10 percent of a distributing plant's Class I sales. A handler pointed out that a 15 percent requirement would not be excessive and would be identical to that provided under the Miami Valley order. These were the only proposals submitted for consideration.

Route disposition in the marketing area of 15 percent or more of a plant's Class I route disposition will provide an appropriate measure of a distributing plant's association with this particular market. Receipts from other plants of packaged fluid milk products at a distributing plant which are priced as Class I under this or any other Federal order should be excluded from the computation of the percentage of the in-area requirement for a distributing plant. The principal purpose of a minimum requirement on in-area distribution for pooling eligibility is to assure that the dstributing plant is associated with the market in a significant and regular manner since all producers at pool plants are eligible to share in the monthly Class I proceeds of the market. The 15 percent requirement adopted is similar to that effective in the adjoining Miami Valley market and will place these closely related markets on equal terms in this regard.

A distributing plant having more than 85 percent of its Class I route disposition outside the marketing area should not be considered substantially associated with this fluid market.

Pool supply plant. The shipping requirements for a supply plant to be pooled should be revised to require that at least 50 percent of the regular supply of Grade A milk from dairy farmers during the month be shipped as fluid milk products to pool distributing plants.

Under present order provisions, a supply plant must ship an amount of fluid milk or skim milk to pool distributing plants not less than one percent of the total Class I utilization at all pool distributing plants during the second preceding month. If such requirement is met (1) in one of the months of October and November, the supply plant qualifies as a pool supply plant for November; (2) in two of the months of October, November, and December, the plant qualifies for December; and (3) in three of the months of October, November, December, and January, the plant qualifies for the following month of January through October.

A major cooperative proposed that a supply plant to be pooled be required to ship at least 60 percent of its receipts from producers regularly assigned to such plant, to pool distributing plants or as Class I milk to nonpool plants. Also, that a supply plant which met the 60 percent shipping standard during each of the months of September through February be designated as a pool plant for the succeeding months of March through August (unless written request for nonpool status is made) even though such percentage is not met in the latter months.

Proponent pointed to the large amounts of direct-ship milk being drawn from distances much greater than the location of the single supply plant now on the market as an important reason for more stringent pooling standards for supply plants, to assure that this or any other supply plant wanting to be pooled would make its milk readily available to the market at all times.

Four of the five handlers supporting more stringent pooling requirements for distributing plants also supported the cooperative's proposal to increase the shipping requirements for pool supply plants. They contended that higher standards would assure that any supply plant to be pooled throughout the year would maintain a close association with the fluid market.

The fifth handler also supported this position, but proposed that the minimum shipping requirement be 50 percent of receipts rather than 60 percent. Also, that a supply plant meeting such requirement during each of the months of August through March should be allowed to qualify during the months of April through July without shipping.

The handler operating the single supply plant currently on the market proposed a somewhat lower pooling requirement. This handler proposed that a supply plant be required to ship 40 percent of its receipts from producers as fluid milk, skim milk or cream to pool distributing plants or as Class I milk to nonpool plants. The supply plant would be pooled if the above shipping requirement were met as follows: (1) If met in one of the months of September and October, the plant would qualify as a pool supply plant for October; (2) if met in two of the months of September, October, and November, the plant would qualify for November; (3) if met in three of the months of September, October, November, and December, the plant would qualify for December; and (4) if met in four of the months of September, October, November, December, and January, the plant would qualify for January through September.

The latter handler contended that the cooperative's proposal would have excluded his plant from pooling during the months of September through December 1966 because receipts during weekends primarily are utilized for manufactured products; also, that rather minor changes in the market's Class I sales can drastically affect the ability of this plant to qualify as a pool plant. It was his position that no pooling standard should be adopted which would prevent his plant from continuing to serve as a "balancing" plant for the market. He proposed also that Class I sales to nonpool plants should be counted in meeting supply plant requirements.

In recent years total Class I utilization of producer receipts on the Cincinnati market has consistently exceeded 50 percent, averaging 64 percent in 1964, 69 percent in 1965, 66 percent in 1966, and 69 percent in 1967. During the past several years (1964–67) Class I sales have been highest relative to producer receipts during the months of September through February, exceeding the above annual percentages in such months. While about 96 percent of the market supply for all purposes is direct-shipped milk, there has been a need in the fluid market for more than 50 percent of the milk regularly received from farms at the one supply plant now on the market. On this basis a minimum 50 percent shipping requirement during the months of September through February is reasonable. It would not be in the interest of promoting an efficient marketing system in this market to permit, through a lower qualification requirement, the retention of a major proportion of supplies in a pool supply plant when needed for fluid use in distributing plants. Thus, each supply plant must qualify by making direct shipments of producer milk supplies to pool distributing plants without receipt at an intermediate plant.

A supply plant from which a lesser proportion of milk is received at pool distributing plants during September through February, should not be considered as primarily associated with this market and therefore should not be fully regulated. On the other hand, the higher percentage (60) proposed by the cooperative association is not necessary to insure a sufficient supply of milk for the market. This market should be in a reasonable competitive position to procure its needs if the minimum performance requirements are similar to those in other nearby regulated markets. A minimum percentage of 50 in this market will place this market and other nearby markets on substantially equal terms in this regard.

Moreover, the proposed higher percentage was based on the proposition that outside sales of Class I milk would be counted toward meeting such percentage. Supply plant requirements should be related to the particular supply situation in the Greater Cincinnati market since their primary purpose is to assure an adequate supply of milk for this market. Outside sales of Class I milk should not be included as a basis for qualifying a supply plant for pool plant status, since such sales do not measure need in this market. It is proposed that the 50 percent requirement adopted be met without the benefit of outside Class I sales.

A supply plant which meets the 50 percent shipping standard during each month of September through February should be automatically designated as a pool plant for the succeeding months of March through August (unless a written request for nonpool status is submitted to the market administrator). As previously indicated, the fall months are those of greatest Class I utilization in relation to producer receipts. Greater flexibility for retaining producer milk supplies at supply plants should be permitted during the normal flush production months of March through August. The latter are the months of peak producer supplies in relation to Class I sales. Accordingly, it is concluded that a supply plant meeting the 50 percent shipping requirement for pooling in each of the short production months of September through February would have demonstrated satisfactorily its year-round association with the market.

Concerning the position of the single supply plant now on the market, which is located about 78 miles from Cincinnati, it is apparent that in the first 3 of the 6 months (October 1966–March 1967) for which shipping experience was shown in the record, this plant would have failed to qualify as a pool supply plant had the 50 percent minimum shipping requirement been in effect. However, it is concluded herein that this or any other supply plant should continue to qualify as a pool plant for the flush production months of 1968 on the basis of meeting the effective pool supply plant shipping requirements of the present order for the fall period of 1967.

Provision should be made which will assure an orderly transition period for a supply plant to meet the revised supply plant pooling requirements herein adopted. This can be accomplished by providing that a pool supply plant which already has gained automatic pooling status for the flush production months in 1968 shall continue to be a pool plant until September 1968, the first month in which the new 50 percent pooling requirement would be effective, unless written notice is received by the market administrator requesting nonpool status.

2. *Diverted milk.* The rules for diverting producer milk should be revised as follows: There should be no limit on diversions between pool plants. A cooperative association should be able to divert to nonpool plants up to 35 percent of the milk of its producer members received at all pool plants during the month. Similarly, a proprietary handler should be able to divert up to 35 percent of the total producer milk received at his pool distributing plant during the month exclusive of milk diverted therefrom by a cooperative. Diversion of the milk of any producer to a nonpool plant should be permitted only if at least 4 days of production of the milk of such producer is received at a pool plant during the month.

Under the present order, diversions of producer milk from a pool plant to another pool plant by either a proprietary or cooperative handler are limited to not more than 2 consecutive days of delivery and not more than 10 delivery days during the month.

The major cooperative association's proposal for unlimited diversions of producer milk between pool plants should be adopted. This will permit greater flexibility in such diversions for pool handlers under the stricter pooling requirements adopted herein for distributing plants. It will further assist cooperatives and handlers to achieve maximum use of available producer milk in Class I through economical handling practices.

Under current provisions for diversions to nonpool plants, cooperative handlers may divert on an unlimited basis. Proprietary handlers may divert to nonpool plants during the months of March through August only.

The cooperative association proposed with respect to diversions to nonpool plants that only cooperative handlers be able to divert on an unlimited basis. Diversions by proprietary handlers to nonpool plants would be limited, in any month, to a number of days not to exceed one-third of the days of delivery to pool plants. Proponent contended that this would permit somewhat greater flexibility in diversions for proprietary handlers as compared to the present provisions in view of the substantially higher shipping requirements for pool distributing plants proposed relative to the present minimal shipping requirements.

Proponent cooperative association and certain handlers assume responsibility for handling much of the reserve milk in excess of the market's bottling requirements. Consequently, both proprietary handlers and cooperatives should have similar opportunity to divert milk. Since it is intended that the order should assure an adequate, but not excessive, supply of milk for the fluid market, the specific order provisions should be such as to promote this objective. A limited basis of diversion to nonpool plants will avoid the temporary attachment to the market of milk not part of the regular supplies. However, aggregate diversions up to 35 percent of producer receipts should assure orderly handling of supplies and yet discourage the pooling of milk simply to take advantage of the uniform price return.

Producer milk should include that milk of a dairy farmer diverted within the prescribed monthly limit as well as milk received at a pool plant. A cooperative or proprietary handler diverting milk in excess of the percentage limit would be required to designate those producers whose milk must be excluded from the pool when the allowable diversion limit is exceeded. If the handler fails to designate those producers whose milk is ineligible, making it infeasible for the market administrator to determine which milk was overdiverted, all milk diverted to nonpool plants by such handler should be excluded as producer milk.

Diversions by handlers, either proprietary or cooperative, to nonpool plants should be related to some basis of continued association with this market. For this reason milk of a producer eligible for diversion to a nonpool plant should be received at a pool plant in an amount not less than 4 days' production during the month. This will insure that the milk remains qualified for and available to the market.

The basis for pricing producer milk diverted from a pool plant to another plant should be modified.

The diversion provisions for this market are designed to assist in the orderly disposition of producer milk receipts not utilized as Class I milk to pool plants or nonpool plants for processing. Normally, milk would be priced at the plant of receipt. However, there is a need for diversion from bottling plants mainly on weekends when minimal bottling is carried on by such plants. At the present time about 96 percent of total producer receipts normally is received at such city plants where no location adjustments apply.

Diversions between such plants do not involve a change in location pricing for producer receipts. On the other hand, weekend diversions are likely to be made to a location where the price is subject to location adjustment. A principal balancing plant is in a location adjustment zone. Since most of the available producer milk is needed at city plants, and is regularly delivered there, the present provision for pricing diverted milk at the location of the pool plant where normally received should be continued.

The remaining question is a proper measure of normal receipt for this pricing purpose. Under the present order diverted producer milk is priced at the location of the pool or nonpool plant to which the milk is diverted, except in those circumstances where a substantial majority of the producer milk is delivered to a pool plant within 45 miles of Cincinnati. Specifically, producer milk diverted to other plants is priced at the location of the pool plant from which it is diverted, if the milk is received at a pool plant located less than 45 miles from Cincinnati on 60 percent or more of the days of delivery during the immediately preceding September through December period, or 60 percent or more of the days of delivery from the first day of delivery to the last day of February (in the preceding September through February).

Proponent cooperative association proposed that the measure of performance for pricing diverted milk of a producer at the plant from which diverted be changed to delivery to the plant on two-thirds or more of the days of production. Otherwise milk would continue to be priced at the location of the plant to which diverted.

The measure of performance for pricing diverted milk at the location of the pool plant from which diverted should be changed from 60 percent of the days of delivery to 20 days of production delivered to such pool plant during the month. Basically, this requirement is equivalent to that proposed by producers. However, expression in terms of a specific number of days of production avoids the fractional day which could result from use of a percentage figure, such as 60 percent of the days of delivery or two-thirds of the days of production. The provision adopted allows 10–11 days on which milk may be diverted and is reasonable in terms of the need for diversion, which occurs mainly on weekends. It also has the advantage of simplicity.

(3) The application of location adjustment credits on supply plant milk should be modified.

A major cooperative association offered alternative proposals to modify location adjustments. Described in general terms, one proposal would specify a "base zone" radius of 100 miles from Cincinnati where no location adjustment credits would be allowed to handlers on Class I milk unless such milk actually was moved to Cincinnati. However, milk moved to Cincinnati from plants beyond 30 miles from the city to a pool plant within a 30-mile radius would receive location credit to the extent the milk was needed to serve the handler's Class I requirements (including a 35 percent cushion) after assigning producer milk received at the handler's distributing plant to Class I use. The rate of credit would be 10 cents per hundredweight for a distance of 30–50 miles, plus 1 cent for each additional 10 miles thereafter. Under this proposal no adjustment to the producers' uniform price would be made at plants within a 100-mile radius from Cincinnati.

The second proposal would provide for no location adjustment at plants within 40 miles of Cincinnati, a 10-cent minus adjustment for distances of 40–50 miles, plus 1.5 cents for each additional 10 miles over 50. For the purpose of computing the amount of milk subject to adjustment under this proposal, the handler's Class I use would be prorated to supply plant milk and other receipts. The current zone rates of adjustment to the producer blend price would not be changed under this proposal.

A handler proposed a location adjustment provision identical to that adopted for the Miami Valley order. The witness for this proposal gave no specific testimony, however, as to the applicability or propriety of this proposal under conditions prevailing in the Cincinnati market. The proposal consequently must be denied.

The problem involving location adjustment credits, as explained by producers, is that handler costs of procuring milk for Class I use can vary significantly by source of supply. The handler with all direct-ship milk (i.e., without reloading) receives his supply f.o.b. his city distributing plant. The farm-to-plant hauling cost in this case is paid entirely by the producer. Because there are insufficient, and steadily declining, direct-ship supplies to meet the needs of all handlers in all months, some must purchase more distant supplies which have been reloaded at "pump-over" facilities or transfer stations,[1] or received at a country supply plant, prior to delivery to the distributing plant.

Competitive procurement conditions have necessitated the payment by handlers of hauling subsidies on certain reloaded milk averaging 3 cents per hundredweight, although such subsidies may vary from 5 to 25 cents per hundredweight on specific reload shipments at some distance from Cincinnati. Much of such milk is procured in competition with the Indianapolis, Miami Valley, and Fort Wayne markets and can move to one or another of these alternative markets at lesser hauling cost than if moved to Cincinnati. In most recent periods the blend price at Cincinnati has been insufficient to pay the full hauling cost to Cincinnati and still be competitive with other markets. Handlers purchasing through a

[1] Milk reloaded at pump-over facilities or transfer stations also is priced f.o.b. base zone under the minimum price provisions of the present order.

country supply plant must pay a substantial handling charge on such milk.

Handlers thus pay varying amounts in relation to the Class I price to obtain needed supplies for Class I use depending upon whether they receive direct-ship milk, milk reloaded at a transfer station or pump-over facility, or milk previously received at a country supply plant. This is without regard to general premiums, or "negotiated prices," which may also prevail in the market.

Producers expressed the view that, ideally, the total cost of "freight" in procuring supplies should be assessed against handlers and should be shared by them in a manner that all handlers purchase milk delivered to their distributing plants on equal terms. Such a plan for "pooling" the transportation costs of handlers is being carried on at present through voluntary arrangements in the market. The hearing proposals, however, would affect only milk purchased through a country supply plant so as to increase somewhat location credits from the producer-settlement fund to any handler purchasing from such a source. Such proposals would not reach reloaded milk on which localized premiums or hauling subsidies are being paid currently. The country plant milk affected by the proposal is less than 5 percent of the total market supply.

This market has been supplied, up to the present, almost entirely by milk shipped from farms to pool distributing plants without prior receipt at a country supply plant. As previously pointed out, there is not now, and never has been, more than the one supply plant attached to this market. Under usual conditions, producer milk received at distributing plants should be assigned to Class I use before transportation allowance is given for milk brought in from supply plant sources. This is because location differentials to handlers on Class I milk received from country supply plants are deductible from returns to producers computed at the f.o.b. market Class I value and are credited to handlers from pool funds. The greater the amounts deducted for transportation, the lower the uniform price will be. Location adjustments therefore should be held to the minimum which will accommodate the movement of the necessary plant supplies of milk to fulfill the requirements of the Class I market.

At this time the direct-ship supply on which the producers pay full hauling expense is not sufficient to satisfy all the Class I requirements of handlers. In the event a handler needs country plant milk, he therefore should be able to procure it without excessive cost in relation to handlers with adequate quantities of direct-ship milk. Consequently, there should be some additional tolerance in the assignment to Class I of milk brought in from a pool supply plant. As previously stated, one of the cooperative's proposal provides that milk from a supply plant be prorated to Class I along with direct-delivered producer milk. The effect of this proposal would be to increase the amount of location adjustment credit available to the handler to cover the transportation cost in receiving plant supplies as needed to supplement nearby producer milk. At present direct-ship milk is given full priority in assignment to Class I before location credits are computed on any balance in such use received from a supply plant.

For the purpose of computing location differential credits on milk received at a pool distributing plant from another pool plant, such milk should be assigned to Class I on a pro rata basis with direct-ship milk.

The pro rata assignment to Class I disposition in the pool distributing plant of all producer milk, whether received directly from producers' farms or from another pool plant, will reduce somewhat the cost to handlers who must purchase some milk from a supply plant relative to handlers purchasing milk directly from producers' farms and should be adopted.

To mitigate any abuse of location credits, assignments of Class I milk should be made first to any plant at which no location adjustment credit is applicable, and then in sequence beginning with the plant at which the least amount of adjustment credit would apply. For purposes of uniformity, the same provision would apply to any shipment of bulk or packaged fluid milk products between pool plants.

Reference was made in testimony to the possibility of establishing pump-over facilities and transfer stations as pricing locations in order to allow handlers recovery of the portion of hauling cost they incur to induce milk to move past the Miami Valley market to Cincinnati.

The evidence on this subject does not show how pricing at such reloading points could assist to minimize the problems of milk procurement under past marketing conditions as described in the record. To reimburse handlers for costs incurred for the reload point-to-plant haul and yet return to producers an adequate blend price (adjusted for location) in procurement competition with nearby fluid markets requires maintenance of an f.o.b. market blend somewhat higher than the market blends in the competing fluid markets. Otherwise the application of location pricing at distant reload points might necessitate even higher premiums by handlers to hold specific loads of milk. In most months the Cincinnati Class I utilization has not produced a blend price exceeding the Miami Valley blend.

Also, the practicality of pricing at reload points was not explored sufficiently on this record. Little information was presented on the relative importance of distant reload milk to the total market supply, or as to the relative permanence of any given location as a point for reloading. Similarly, whether in all cases the handler actually pays a part of the reload point-to-plant haul is not clear on the record. Any plan for pricing milk at reloading points, if appropriate, should take into account factors and experience which were not fully explored on this record.

4. *Revision of producer payment provisions.* The rate of partial payment by handlers (for milk delivered during the first 15 days of the month) to producers and cooperative associations (for producer milk marketed by it to other handlers) should be increased. Such payments to individual producers, should be made on the 27th day of the month. A cooperative association should receive partial payment on producer milk marketed by it, 1 day prior to the payment date for other producers. The change in the date for making final payments to producers and cooperative associations is discussed in another section of this decision.

A major cooperative proposed a schedule of partial payment rates related to the Class II price. The payment would be $1 when the Class II price for the preceding month was $2.24 or less, and could be as much as $4 when such Class II price was $4.75 and above. An alternative flat payment rate of $3 also was suggested.

The cooperative proposed the increased rate of partial payment to insure producers a more timely payment for milk delivered to handlers during the first 15 days of the month. It was contended that the partial payment should be higher than the present flat rate of $1 per hundredweight. Proponent pointed out that certain handlers currently make partial payments to producers in the range of $2 to $4 per hundredweight. The producers' proposed plan of partial payments would have called for rates averaging $2.75 in 1966 and $3 in 1967. These rates were, respectively, $1.01 less than the Cincinnati Class II price for 1966, and 92 cents under for 1967.

Partial payments in excess of the minimum rate of $1 currently being made are on voluntary basis but do not apply uniformly throughout the market. A more uniform basis is needed if producers generally are to be afforded assurance of prompt payment at a reasonable level. At the present time producers deliver as much as 50 days' milk to handlers while receiving only a token payment for the value of the first 15 days' deliveries, since final payment for all milk delivered during any month is received 20 days after the end of the month. On the other hand, the trend to larger volume operations in dairy farming has placed increased pressure on the operating capital of producers. The average producer is faced with increasing cash needs and should receive prompter payment in order to enable him to meet his obligations.

The rate of partial payment adopted herein gives due recognition to similar type payments required in nearby regulated markets which compete with the Cincinnati market for milk supplies. The most direct relationship in this regard is the Miami Valley market. The use of the same rate of partial payment for producers in the two markets should contribute to more orderly marketing of producer milk supplies to plants in these markets since relative payment dates can have an influence on point of delivery when prices are comparable. It is concluded that adoption of a rate of partial

payment at the Class II price for the preceding month rounded to the nearest 50 cents should be adopted.

The date for partial payments to producers and cooperative associations should be advanced to the 27th of the month from the fifth day after the end of the month, more closely in line with the dates now provided in other nearby orders. The Miami Valley and Northeastern Ohio orders require such payments by the 27th of the month and other nearby orders—Northwestern Ohio, Tri-State, Fort Wayne, and Indianapolis—provide for such payments not later than the last day of the month.

A handler proposed that partial payment be limited to those producers who continue to deliver to pool plants after the 27th day of the month. He offered this modification in order to assure that the partial payment, after allowing for assignments, loans, etc., would not exceed total payments due any producer who ceases shipping to a pool plant during the month. Adequate assurance to handlers can be provided by requiring that partial payment to a producer be made only when he continues to deliver to a pool plant for at least 15 days during the month. Such delivery requirement is provided.

5. *Transfers.* The rules of classification on transfers and diversions should be revised.

(a) Bulk fluid milk products transferred or diverted from another pool plant to a pool supply plant should be classified to available Class II milk at the latter plant after allocation to such class of unregulated milk, other order milk, inventory of bulk fluid milk products and allowable Class II shrinkage.

The one pool supply plant in this market is primarily a manufacturing plant. It operates also as a supply-balancing plant for the market. Bulk fluid milk products are transferred or diverted regularly from pool distributing plants to this plant for processing into Class II products. Such movements, normally representing milk in excess of bottling requirements, may be classified by agreement between the handlers.

The adopted method of classifying transfers or diversions to a supply plant from either a pool distributing plant or another supply plant is appropriate to remove the possibility that interplant movements might be made for the purpose of enlarging "Class I" disposition solely to obtain greater location adjustment credits at the expense of the pool. Also, the priority assignment of the regular producer milk supply at the pool supply plant to any Class I at such plant would be assured. It is concluded that transfers or diversions to pool supply plants from either pool distributing or supply plants should be first assigned to available Class II milk.

(b) Bulk fluid milk products transferred or diverted between pool distributing plants should continue to be classified by agreement between the handlers involved unless producer milk at the transferee-plant exceeds 115 percent of Class I milk at such plant, after allowing appropriate assignments of other order milk, inventories of fluid milk products, unregulated milk, or shrinkage assigned to Class I milk.

A major cooperative proposed that all transfers between pool distributing plants be classified as Class II milk. The cooperative indicated that this would be of assistance to it in its internal accounting for transfers between pool distributing plants. One handler supported the adoption of this proposal.

In most cases, fluid milk products transferred or diverted between pool distributing plants should continue to be classified as Class I milk unless utilization as Class II milk is claimed by both handlers on reports submitted for the month to the market administrator. Most pool distributing plants in the market utilize a high percentage of producer receipts in Class I products. In the large majority of cases, milk transferred or diverted is intended for Class I use. Thus, the classification in Class II of all transfers and diversions between pool distributing plants could lead to a much greater number of classification adjustments. As previously indicated, the present provisions make it possible to assign transfers to Class II in those instances where milk is intended for Class II use and the transferee plant has available Class II utilization.

On the other hand, a handler may increase Class I location credits on milk received from a supply plant simply by transferring milk in Class I from his distributing plant to another distributing plant. This is appropriate when the transferee plant requires such milk for Class I use. However, if the latter plant has an adequate supply of producer milk for Class I, such classification of the transferred milk results in assessment of excessive location credits against the pool.

Consequently, the transfer provisions should be modified to insure the assignment of transfers of bulk fluid milk products as Class I milk to reflect actual requirements of such milk for Class I use in excess of producer receipts at the transferee distributing plant. This assurance can be provided through assignment to Class II milk of such movements whenever producer milk at the transferee distributing plant exceeds 115 percent of Class I milk at such plant, after allowing for other order milk and inventories of fluid milk products, unregulated milk or shrinkage assigned to Class I. The adoption of this requirement should deter transfers of bulk fluid milk products as "agreed on" Class I milk simply to obtain greater location credits.

6. *Miscellaneous changes.* (a) The dates for filing handler reports, making payments to the market administrator, pool computations and payments to producers should be advanced.

Handlers are required to file their receipts and use reports for each month by the 10th day after the month. Each handler is required to pay the market administrator his obligation for milk by the 17th day after the end of the month.

The cooperative association representing a majority of producers on the market proposed advancing by 2 days the date for filing handler reports, the date on which handlers must make payments to the market administrator, and the date by which producer payments must be made.

The association pointed out difficulty in making timely payments to producers under present provisions. It seeks to align the reporting and payment dates under this order more closely with those for other orders in this region, such as the Miami Valley, Columbus, Northwestern Ohio, and Northeastern Ohio orders, which compete with the Cincinnati market for milk supplies.

The final date for filing handler reports and the date for making payments to the market administrator should be established so as to permit timely payments to producers. Presently, the deadlines for filing reports and making pool computations result in a later payment date for producers as compared to competing markets. This is particularly disadvantageous to the local cooperative associations.

To bring the producer payment date in line with competing markets, the dates for reporting, uniform price computations and pool payments must be advanced from 3 to 5 days rather than the 2 days proposed by the proponent association. Thus, handlers should be required to file monthly receipts and utilization reports by the seventh day after the end of the month of delivery of milk. By comparison, handlers regulated by the Columbus order are required to file such reports of receipts and utilization on the sixth day after the month, those under the Miami Valley and Northwestern Ohio orders by the seventh day, and handlers under the Northeastern Ohio and Indianapolis orders by the eighth day.

This will necessitate handler payments to the market administrator by the 12th day and permit the uniform price to be announced by the 15th day after the month. Final payments to producers then can be made by the 17th day after the end of the delivery month. Final payments to producers are required by the Columbus and Miami Valley orders on the 16th day after the month, by the Northwestern Ohio order on the 17th, and by the Northeastern Ohio and Indianapolis orders on the 18th.

A cooperative should receive payment 1 day in advance of payments to nonmember producers in order to have sufficient time to prepare checks for members. By this means both members of cooperative associations and nonmember producers may receive final payment at the same time.

No objections were raised to advancement of the various dates for filing reports and making the payments required by the order.

The deadline date for the announcement of the Class I price (with butterfat differential) by the market administrator should be changed to the fifth day of the month to which it applies. Currently, the Class I price is announced officially on the fifth day after the end of such

month although in the past an unofficial, or "preliminary", price customarily has been announced by the market administrator by the fifth day of the month. The basic formula price (Minnesota-Wisconsin average price for manufacturing milk) necessary for the computation and announcement of the Class I price is available by the fifth day of each month. Official announcement by such date will provide earlier information to the trade as to the Class I price actually to be effective for the month.

(b) *Duties of Market Administrator.* The provision which requires the market administrator to report to each cooperative association the utilization of milk received by each handler from its member producers in each class should be clarified so as to exclude transfers of fluid milk products at the transferor-handler's plant.

These reports assist the cooperative association to move milk to plants where needed for Class I use and thus assist in improving market utilization of supplies. The cooperative association requested clarification of the provision so as to provide more meaningful data by eliminating duplication of sales in reported data. It suggested that any sale of fluid milk products from the transferor-plant, as an interhandler transfer, be excluded in computing the Class I or Class II use percentage for such plant. Interhandler transfers would be reflected in the data for the transferee-plant.

Inclusion of transferred fluid milk products data for both the transferee and transferor plant artificially inflates utilization data for the transferor handler's plant. The proposed change in reporting method will provide the cooperatives more meaningful data on individual plant utilization and should be adopted.

(c) *Definitions.* (i) A new definition of "route disposition" should be substituted for the present definition of "route", for clarification. Route disposition should be defined as any disposition, including that custom-packaged for another person, and disposition from a plant store or through vendors of vending machines of any fluid milk product to a retail or wholesale outlet, either directly or through a distribution point, other than a plant.

Pickup of fluid milk products by a vendor at a plant and sales through a vending machine would be considered as route disposition from the plant where such fluid milk products were processed and packaged. This would apply also to fluid milk products custom-packaged for another person.

As to fluid milk products moved from a distribution point to a wholesale or retail outlet, such disposition would be considered as route disposition from the pool distributing plant where packaged. This new definition will accommodate more fully current methods of distributing milk, such as custom packaging and movements of packaged products through distribution points.

(ii) The present definition of a "fluid milk plant" should be replaced with definitions of "plant," "supply plant," and "distributing plant" to describe different types of handling operations.

A "plant" would be an establishment having stationary milk holding facilities operated as a single unit for the purpose of receiving milk for assembly and transfer, or for processing and packaging milk products. A distribution point for the storage of packaged fluid milk products in transit for route disposition would not be considered a plant.

Separate definitions are appropriate for "distributing plant" and "supply plant" because of the difference in functions involved. A "distributing plant" should be defined as a plant that is approved by a duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area and from which during the month route disposition of fluid milk products is made within the marketing area. A "supply plant" should be defined as a plant from which milk approved for fluid consumption in the marketing area is assembled and shipped in bulk as a fluid milk product to a pool distributing plant.

In view of the fact cooperative associations have certain privileges and responsibilities under various provisions of the order, a definition of cooperative association should be adopted. Presently, the marketing service provision includes the requirement that a cooperative association must meet the qualifications prescribed under the provisions of the Capper-Volstead Act. Also, for clarification of other provisions of the order, it is appropriate to include such a definition which is more specific in setting forth requirements for a producer organization to qualify as a cooperative association under the order.

Corollary changes in other definitions have been made as necessary to update the language of the order in relation to the substantive changes earlier discussed. A definition of "Department" has been added.

These new definitions will assist application of other provisions of the order. The definition of "dairy farmer" has been dropped since other changes have eliminated the need for it.

(iii) The definition of "handler" should be revised to include a cooperative association on milk which it delivers from farms to pool plants in tank trucks owned or operated by or under contract to it.

Proponent of this change in the handler definition regularly arranges for the delivery of milk from producers' farms to pool plants. This has become common practice for such association as well as for many cooperatives in Federal order markets since the advent of bulk tanks. One marketing advantage to the cooperative association in this method of handling milk is that it can balance supplies to meet Class I requirements among the various bottling plants and thus arrange the most economical movement and utilization of producer milk supplies.

Expansion of the definition to include a cooperative operating in this manner requires, however, that it have responsibility for reporting to the market administrator the quantities and butterfat tests of milk received from each dairy farmer involved. When milk is picked up at several farms by tank truck and the milk is commingled in one load under the control of a cooperative association, only the association possesses needed information as to the quantities and butterfat tests of the milk.

Where the cooperative association is the handler for producer milk delivered directly (including milk reloaded from one tank truck to another) from the farm to another handler's plant, the latter should continue to be held accountable for such receipts at class prices for payment to the market administrator, including payment of the administrative expense assessment on such milk. He is the purchaser from the producers and determines the ultimate utilization of the milk.

In the event the receiving plant operator doesn't receive milk from the cooperative handler on the basis of farm weights, the cooperative would be the handler on any difference between the farm weights of milk and the volume received at the handler's plant. The cooperative would be accountable for payment at class prices to the market administrator on such difference. If the cooperative operates a plant for receiving milk for later transfer to another handler's plant, payment by the cooperative association to the market administrator would continue to be at the class prices according to the classification of milk transferred.

Milk marketed by a cooperative association which is not delivered to another handler's pool plant must remain, of course, the responsibility of the association in all important respects—i.e., classification, accounting, and payment. Such milk could be that utilized in its own plant or diverted to a nonpool plant for the account of the association.

(d) *Plant shrinkage.* The Class II shrinkage allowance should be modified to permit, under certain circumstances, a division of allowable shrinkage between the cooperative association and the operator of the receiving pool plant, with respect to bulk tank deliveries of producer milk.

Under the present order a maximum allowable shrinkage of two percent in Class II is permitted the operator of a pool plant with respect to producer milk receipts (other than diverted milk (from such plant) and certain bulk receipts of fluid milk products from other order plants and unregulated supply plants. No shrinkage is allowed in such class to a cooperative association as a handler on bulk tank milk delivered to pool distributing plants. In such cases the full allowance for shrinkage accrues to the receiving plant.

A handler proposed an allowance to a cooperative handler of shrinkage up to one-half of one percent of the farm weight when it is the first handler on bulk tank milk, with 1.5 percent accruing the proprietary handler.

The conversion in recent years from can to bulk tank delivery has been at a rapid pace. More than 93 percent of producer milk receipts in this market is now in bulk tanks. The difference between the sum of individual farm weights and the scale weight taken at the plant may approach one-half of 1 percent. Such loss may occur from adherence of milk to the side of the farm bulk tank, in the transfer from bulk tank to a farm pickup tanker, and in the transfer from tanker to the plant of receipt.

Because of this there may be need, under certain circumstances, for dividing the allowable shrinkage between the cooperative and the proprietary handler. This has been the experience in many other Federal order markets where a shrinkage allowance to the cooperative of one-half of 1 percent for the function of receiving by bulk tank has been accepted as reasonable.

Presently, however, Cincinnati handlers purchase milk on the basis of the farm weights and in this circumstance the cooperatives involved experience no shrinkage. In such case the order should continue to provide that actual shrinkage experienced by the transferee-handler will be allowed him in Class II up to 2 percent provided the market administrator is notified in advance of this basis of purchase. Similarly, when the handler operating the distributing plant buys directly from individual producers, the maximum allowance for shrinkage at the plant should be continued at 2 percent.

Although current market practice results in the receiving handler accounting for all milk on the basis of farm weights and tests, some allowance in Class II should be provided a cooperative in the event the purchasing handler buys on plant scale weight. In such instances the cooperative, as the first receiving handler, would be held accountable to the producer-settlement fund for any difference in the quantities of milk received from producers based upon farm measurements, and the plant scale weight.

Specifically, the maximum shrinkage allowance in Class II at each plant should be 2 percent of milk received from producers, including milk diverted in bulk tank lots from another pool plant (less 1.5 percent of milk transferred in bulk to other plants), plus 1.5 percent of milk in bulk tank lots transferred from other plants or from a cooperative association which is the handler on such milk. There was no suggestion for revising the present maximum of 2 percent for the entire receiving and processing operation.

To provide equitable application of shrinkage provisions to all handlers who may have various types of operations and sources of milk receipt, the rate of 0.5 percent shrinkage allowance should apply to all plant receipts in bulk, whether from other pool plants or unregulated sources. The only exception to this would be in the case of receipts of other source milk for which Class II utilization is requested. In this event, since the entire receipt is for Class II use, there is no need to establish a limit of shrinkage that may be classified as Class II.

One and one-half percent of fluid milk products disposed of in bulk tank lots to plants of other handlers by transfer should be deducted. This will allow 0.5 percent for the receiving and handling operation on such transfers. The second plant would be allowed, as stated previously, 1.5 percent on the transfer of fluid milk products.

In view of the above, it is concluded that division of shrinkage on bulk tank milk for which a cooperative association is the handler, when the milk is purchased by the handler on plant scale weight, on diversions of bulk tank milk by the cooperative between pool plants, and on transfers of bulk tank milk among plants, should be provided for.

To assure an equitable assignment, total shrinkage should be prorated to (1) those categories of receipts on which the above limits apply, and (2) other receipts in fluid form to which specific shrinkage limits do not apply.

(e) *Proof of class use.* A major cooperative association proposed that all skim milk and butterfat for which a handler cannot establish utilization be classified as Class I milk. It was their position that the order should make clear that the handler who first receives milk or milk products must prove to the market administrator that classification of milk as Class II is appropriate.

This type of provision is included in other milk orders and removes advantage that otherwise might accrue to any handler who fails to keep adequate records. Thus, the burden of proof is on the handler to prove the utilization of any milk as other than Class I milk. The proposal should be adopted as a means of clarifying this responsibility of the handler.

Producers further proposed to include a new provision to reclassify any skim milk or butterfat if verification by the market administrator discloses that the original classification was incorrect. Such provision is made unnecessary by adoption of the provision on burden of proof referred to above and therefore is not adopted.

(f) *Inventories.* The order should provide that inventories of fluid milk products on hand at the end of the month be classified as Class II milk if in bulk, and Class I if packaged, pending possible reclassification in the following month.

Handlers have inventories of milk and fluid milk products at the beginning and end of each month which must enter into the monthly accounting for receipts and utilization at the plant. Inventories of fluid milk products on hand in pool plants at the end of the month presently are classified as Class II at all such plants whether in bulk or packaged. Beginning of the month inventories of fluid milk products are allocated to Class I when current month receipts of producer milk are less than Class I utilization. When such inventories are allocated to Class I, the handler pays the difference between the Class I price for the current month and the Class II price for the previous month. The volume on which this charge is made may not exceed, however, the volume for which producers were paid at the Class II price in the previous month.

The accounting procedure can be facilitated by providing that inventories of bulk fluid milk products on hand at the end of the month be classified as Class II milk. In the following month inventories in bulk would be subtracted, under the allocation procedure, from any available Class II milk. Any excess over available Class II milk should be subtracted from Class I milk. The higher-use value as Class I thus indicated should be reflected in returns to producers in that month. This would be at the rate of the difference between the Class II price in the first month and the Class I price in the second month.

Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. This classification conforms with the ultimate utilization of most of the packaged fluid milk products in inventory. This results in fewer adjustments in classification and handlers' obligations than if classified in Class II as in the case of bulk milk.

To insure that all handlers pay the current month's Class I milk price for fluid milk disposed of during the month, it is provided that, if the Class I milk price increases over the previous month, the handler will be charged the difference between the Class I milk price for the current month and the Class I milk price for the preceding month on the quantity of ending inventory assigned to Class I milk in the preceding month. Likewise, if the Class I milk price decreases, the handler will receive a corresponding credit.

The allocation section of the order should provide that inventories 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.

Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for as Class II when used to produce a manufactured dairy product, such skim milk and butterfat should not be included in inventory.

Inventories of fluid milk products and Class II products on hand at the beginning of the first month in which this amendment becomes effective or during any month in which a plant becomes regulated for the first time should be allocated to any available Class II utilization of the plant during the month. This producedure will preserve the priority of assignment to current receipts of producer milk of the current Class I utilization of the plant.

One handler objected to the Class I classification and pricing in the current month of ending inventories of packaged fluid milk products, since the handler's distribution or final utilization of such product from inventory would be in the following month. It was this handler's position that the payment of the Class I price for end-of-the-month inventory would result in a premature payment

and "penalty" on inventories held by handlers.

Most, if not all, end-of-the-month inventory of packaged fluid products is disposed of early in the following month. Handlers under current order provisions make final payment for inventories of packaged Class I products about 50 days after actual disposition of such products. The inclusion of ending inventories of packaged fluid milk products in Class I will result in returning to producers full payment for their product about two weeks after final disposition by handlers, not prior to disposition. It is reasonable for producers to receive payment more promptly after the milk is actually processed and sold as a fluid milk product.

The handler objected also to the potential inflation of total Class I milk pounds which could result from the initial classification of ending inventories of packaged fluid milk products in Class I in computing the "Class I utilization percentage" under the supply-demand adjustment formula. This handler's recommendation that the provision contained in the Miami Valley Order to accommodate the identical change in classifying packaged inventories in Class I should be adopted. He pointed out that sales and receipts for the two markets are utilized in the computation of the common supply-demand adjustor for the two markets.

The classification of packaged fluid milk products in inventory in Class I is not intended to have any significant effect on the "Class I utilization percentage". Accordingly, the computation of the monthly Class I utilization percentage for the supply-demand adjustments which include Class I sales for the month following the effective date of the amended order should be modified to offset the effect of the changeover to include monthly ending inventories of packaged fluid milk products in Class I. Specifically, monthly ending inventories of packaged fluid milk products should be deducted from the aggregate pounds of producer milk in Class I milk in computing the utilization for each of the third, fourth, and fifth months, respectively, after this amended order is first made effective.

The appropriate order language, identical to the Miami Valley order, has been provided to eliminate any significant effect on the resulting supply-demand adjustment. After the fifth month, the adjustment is not required for this purpose.

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 order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) 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 amending the order as amended regulating the handling of milk in the Greater Cincinnati marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

Definitions

§ 1033.1 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.).

§ 1033.2 Secretary.

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

§ 1033.3 Department.

"Department" means the U.S. Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the U.S. Department of Agriculture.

§ 1033.4 Person.

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

§ 1033.5 Cooperative association.

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

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

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

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

§ 1033.6 Greater Cincinnati marketing area.

"Greater Cincinnati marketing area", hereinafter called the "marketing area", means all the territory within the perimeter boundaries of the places listed below:

Ohio Counties

Butler.	Hamilton.
Clermont.	Warren.

Kentucky Counties

Boone.	Harrison.
Campbell.	Kenton.
Grant.	Pendleton.

§ 1033.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with inspection requirements of a duly constituted health authority for fluid consumption in the marketing area, which milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1033.15. "Producer" shall not include any such person with respect to milk which is fully subject to the class pricing and producer payment provisions of another order issued pursuant to the Act.

§ 1033.8 Handler.

"Handler" means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative association with respect to producer milk diverted from a pool plant to another pool plant or to a nonpool plant under § 1033.15;

(c) Any cooperative association with respect to producer milk it delivered directly from the farm to the pool plant of another handler in a tank truck or trailer owned or operated by, or under contract to, such cooperative association;

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

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1033.92.

§ 1033.9 **Producer-handler.**

"Producer-handler" means any person who is both a dairy farmer and a handler, but who receives no milk from other dairy farmers: *Provided*, That such person provides proof satisfactory to the market administrator that (a) the maintenance, care and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled is the personal enterprise of and at the personal risk of such person in his capacity as a dairy farmer, and (b) the operation of a distributing plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 1033.10 **Plant.**

"Plant" means the land and buildings together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which contains stationary milk holding facilities and is operated exclusively for the bulk handling or processing of milk or milk products. The term "plant" does not include distribution points (separate premises used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants).

§ 1033.11 **Distributing plant.**

"Distributing plant" means a plant approved by any duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area from which route disposition is made in the marketing area during the month.

§ 1033.12 **Supply plant.**

"Supply plant" means a plant in which some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as a fluid milk product to a distributing plant during the month.

§ 1033.13 **Pool plant.**

"Pool plant" means a plant specified under paragraph (a) or (b) of this section, except the plant of a producer-handler or a plant exempt pursuant to § 1033.92.

(a) A distributing plant with:

(1) Route disposition within the marketing area during the month of at least 15 percent of its total route disposition, such percentage to be exclusive of receipts from other plants of packaged fluid milk products priced as Class I milk under this or any other Federal order; and

(2) Total route disposition amounting to not less than 50 percent of its total receipts of Grade A milk from dairy farmers, other plants (excluding receipts of bulk fluid milk products transferred or diverted to it as Class II milk from other plants), and cooperatives as handlers pursuant to § 1033.8 (but excluding any such milk diverted from such plant to a nonpool plant by the cooperative pursuant to § 1033.15(c)). Any plant which complies with such percentage requirement during the immediately preceding month shall continue to be a pool plant during the current month even if the minimum percentage requirement under this subparagraph is not met for the current month. Any distributing plant which was subject to pooling for the month immediately preceding the effective date of this paragraph shall be deemed to be a pool distributing plant for the first three months this provision is in effect, irrespective of whether it meets the minimum percentage distribution requirements of this paragraph

(b) A supply plant from which during the month the volume of fluid milk products shipped directly to and received at plants qualified pursuant to paragraph (a) of this section and route disposition from such plant within the marketing area, if any, is not less than 50 percent of the volume of Grade A milk received from dairy farmers at such plant (excluding receipts from other plants or as a diversion pursuant to § 1033.15). Any supply plant which meets the required percentage of this paragraph during each of the months of September through February shall continue to be so qualified for the following months of March through August, unless such operator in writing requests nonpool plant status for such plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant requalifies under this section on the basis of shipments. A plant which qualified as a pool plant under former § 1033.7(c) for the month immediately preceding the effective date of this paragraph shall retain pool plant status through August 31, 1968, unless nonpool plant status is requested in the above manner.

§ 1033.14 **Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in the marketing area during the month of fluid milk products labeled Grade A in consumer-type packages or dispenser units.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which milk, skim milk or cream acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label is shipped to a pool plant.

§ 1033.15 **Producer milk.**

"Producer milk" means all skim milk and butterfat contained in milk of any producer, other than milk received at a pool plant by diversion from a plant at which such milk would be fully subject to pricing and pooling under the terms and provisions of another order issued pursuant to the Act which is:

(a) Received during the month by a cooperative association as a handler under § 1033.8(c) or received at one or more pool plants. Any such milk delivered in a farm pickup tank truck (other than under § 1033.8(c)) to more than one pool plant shall be deemed to have been received at the first pool plant where any of the milk was withdrawn from the tank truck. If the milk received at a pool plant from a cooperative handler pursuant to § 1033.8(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the cooperative handler pursuant to § 1033.8(c) at the location of the pool plant;

(b) Diverted during the month by a handler from a pool plant to another pool plant; or

(c) Received at a pool distributing plant during the month in an amount not less than 4 days' production of the producer and diverted during the month to a nonpool plant under the following conditions:

(1) The quantity of milk so diverted by a cooperative association for its account does not exceed 35 percent of its producer member milk received at pool distributing plants during such month, exclusive of any member milk diverted to a nonpool plant(s) for the account of a handler operating a pool plant.

(2) The quantity of milk so diverted by a proprietary handler does not exceed 35 percent of the receipts at his pool distributing plant during the month exclusive of any such milk receipts diverted for the account of a cooperative association.

(3) If milk diverted to a nonpool plant exceeds the amounts specified in subparagraphs (1) and (2) of this paragraph, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

(d) Diverted milk shall be deemed to have been received by the handler at the location of the pool plant or nonpool plant to which the milk is diverted, except that if at least twenty days' production of the producer during the month is received at a pool distributing plant located less than 45 miles from the city hall in Cincinnati, milk of the producer diverted from the plant shall be deemed to have been received by the handler at such plant.

§ 1033.16 **Fluid milk product.**

Except as provided in paragraph (c) of this section, "fluid milk product" means the fluid form of:

(a) Milk, skim milk, buttermilk, flavored milk, milk drink, whipped cream, cream (sweet or sour), eggnog, concentrated milk; and

(b) Any mixture of milk, skim milk, or cream including fluid, frozen, or semi-frozen malted milk and milk shake mixtures containing less than 15 percent total milk solids.

(c) Excluded from this definition are: Frozen storage cream, aerated cream in dispensers, ice cream and frozen dessert mixes, pancake mix, evaporated and condensed milk, and any sour mixture of skim milk and butterfat in nonfluid form to which cheese or any food substance other than a milk product has been added and which is disposed of as other than sour cream.

§ 1033.17 Other source milk.

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

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

(1) Producer milk (including own farm production),

(2) Such products received from other pool plants, and

(3) Sterilized cream received and disposed of in the same glass or metal hermetically sealed container, and

(b) Products other than fluid milk products from any source (including those produced at the pool plant), which are reprocessed, repackaged, or converted to another product during the month or for which other utilization or disposition is not established pursuant to § 1033.33.

§ 1033.18 Route disposition.

"Route disposition" means a delivery (including that custom-packaged for another person, and disposition from a plant store or through vendors or vending machines) of any fluid milk product to a retail or wholesale outlet either directly or through a distribution point other than a plant.

§ 1033.19 Chicago butter price.

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

MARKET ADMINISTRATOR

§ 1033.20 Designation.

The agency for the administration of this part shall be a market administrator, who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1033.21 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 amendments to the Secretary.

§ 1033.22 Duties.

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

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

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

(c) Pay, out of the fund provided by § 1033.76, the cost of his bond and of the bonds of those of his employees who handle funds entrusted to the market administrator, his own compensation, and all other expenses which will necessarily be incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(d) 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;

(e) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to § 1033.30 or has not made payments pursuant to §§ 1033.70 and 1033.72;

(f) Promptly verify the information contained in the reports submitted by handlers;

(g) Furnish such information and verified reports as the Secretary may request and submit his books and records to examination by the Secretary at any and all times;

(h) Publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate).

(1) On or before the fifth day of each month the minimum price for Class I milk pursuant to § 1033.51(a) and the Class I butterfat differential pursuant to § 1033.52(a) both for the current month, and the minimum price for Class II milk pursuant to § 1033.51(b) and the Class II butterfat differential pursuant to § 1033.52(b) both for the preceding month;

(2) On or before the 15th day after the end of each month the uniform price computed pursuant to § 1033.63, and the producer butterfat differential computed pursuant to § 1033.74;

(i) On or before the 12th day after the end of each month:

(1) Notify each handler of his net obligation pursuant to §§ 1033.60 and 1033.61 and of any adjustments pursuant to § 1033.62; and

(2) Report to each cooperative association the amount and class utilization of milk caused to be delivered by such association, either directly or from producers who have authorized such association to receive payments for them under § 1033.73(c), to each pool plant. For the purpose of this report the milk so received shall be prorated to each class in the proportions that the total receipts of producer milk at such plant were used in each class, adjusted to eliminate transfers of fluid milk products to other pool plants;

(j) Prepare and disseminate for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this part as do not reveal confidential information;

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1033.46(a)(9) and the corresponding step of § 1033.46(b), the market administrator shall estimate and publicly announce the ultization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1033.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

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

REPORTS, RECORDS, AND FACILITIES

§ 1033.30 Monthly reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler for each of his pool plants, and a cooperative association with respect to milk for which it is the handler, shall report for such month to the market administrator, in the detail and on forms prescribed by the market administrator, the following:

(a) The total pounds of skim milk and butterfat contained in or represented by:

(1) Producer milk, including own farm production and quantities diverted to nonpool plants;

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

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

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

month in bulk and in packaged form, separately;

(b) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this section;

(c) Such other information with respect to such receipts, utilization or disposition as the market administrator may prescribe;

(d) His producer payroll, which shall show for each producer: (1) The total pounds of milk with the average butterfat test thereof, (2) the amount of the partial payment to such producer made pursuant to § 1033.70 and the nature and amount of deductions and charges made by the handler; and

(e) The name and address of each new producer.

§ 1033.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler specified in § 1033.8 (d) who operates a partially regulated distributing plant shall report as required of handlers operating pool plants pursuant to § 1033.30 (a) through (c), except dairy farmer receipts of Grade A milk shall be reported in lieu of producer milk. Such report shall include a separate statement showing route disposition in the marketing area; and

(c) On or before the seventh day after the end of the month each handler who operates a partially regulated distributing plant, except one who elects to make payments pursuant to § 1033.61(b), shall report to the market administrator on forms approved by the market administrator his dairy farmer payroll which shall show for each dairy farmer, the total pounds of milk received from him with the average butterfat content thereof, and the net amount of the payment made to such dairy farmer together with the price, deductions and charges involved.

§ 1033.32 Verification of handler reports.

Each handler shall make available to the market administrator or to his agent, or to such other persons as the Secretary may designate, those records which are necessary for the verification of the information contained in the reports submitted pursuant to §§ 1033.30 and 1033.31, and those facilities which are necessary for the sampling, weighing, and testing of the milk of each producer.

§ 1033.33 Records and facilities.

Each handler required to make reports to the market administrator shall maintain, and make available to the market administrator 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 reports, or to ascertain the correct information with respect to (a) the receipts and utilization of all skim milk and butterfat received, including all milk products received and disposed of in the same form; (b) the weights and tests for butterfat, and for other content, of all milk and milk products handled; and (c) payments to producers and cooperative associations.

§ 1033.34 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. If, within such 3-year period, the market administrator notifies a handler in writing that the retention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1033.40 Basis of classification.

The skim milk and butterfat which are required to be reported pursuant to § 1033.30(a) shall be classified by the market administrator, subject to the provisions of §§ 1033.41 through 1033.46.

§ 1033.41 Classes of utilization.

Subject to the conditions set forth in §§ 1033.43 and 1033.44, the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product, except:

(i) Fluid milk products classified as Class II pursuant to paragraph (b) (2), (3), and (4) of this section;

(ii) Sterilized cream disposed of in the same glass or metal hermetically sealed container in which received; and

(iii) Fluid milk products which are fortified with the addition of milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content;

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

(3) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Ice cream, frozen desserts, frozen cream, cheese, butter, and pancake mix;

(ii) Ice cream and frozen dessert mixes, excluding malted milk or milk shake mixtures containing less than 15 percent total milk solids;

(iii) Milk or skim milk and cream mixtures disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product;

(iv) Any sour mixture of skim milk and butterfat in nonfluid form to which cheese or any food substance other than a milk product has been added and which is disposed of as other than sour cream;

(v) Spray and roller process nonfat dry milk; and

(vi) Evaporated and condensed milk (or skim milk) either in bulk or in hermetically sealed cans;

(2) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1)(iii) of this section;

(3) Disposed of in bulk as milk, skim milk or cream to any commercial food processing establishment where food products are prepared only for consumption off the premises;

(4) Specifically accounted for as dumped, spilled, or disposed of for animal feed;

(5) Contained in inventories of bulk fluid milk products on hand at the end of the month;

(6) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1033.42(b)(1) for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1033.8(c), not to exceed the quantities calculated pursuant to subdivisions (i) through (vii) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1033.8(c)) and milk diverted in bulk tank lots from another pool plant pursuant to § 1033.15;

(ii) Plus 1.5 percent of fluid milk products received by transfer from other pool plants in bulk;

(iii) Plus 1.5 percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1033.8(c), except that if the handler operating the pool plant files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent;

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

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

(vi) Less 1.5 percent of bulk transfers of milk to a pool plant of another handler;

(vii) Less 1.5 percent of bulk transfers of milk to nonpool plants;

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1033.42(b)(2).

§ 1033.42 Shrinkage.

The market administrator shall:

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

(b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:

(1) Skim milk and butterfat, respectively, in the amounts of receipts used

in the computations pursuant to § 1033.41(b)(6); and

(2) Skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1033.41(b)(6).

§ 1033.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product disposed of by a handler from a pool plant shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1033.46 (a)(9) and (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1033.46(a)(4), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1033.46(a)(8) or (9) and (b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) Movements in bulk to a pool supply plant from another pool plant, shall be Class II utilization to the extent such utilization is available at the receiving plant after the computations pursuant to § 1033.46 (a)(9) and (b);

(5) Movements in bulk between pool distributing plants shall be assigned to each class at the transferee plant in sequence beginning with Class II milk when the producer milk received during the month exceeds 115 percent of Class I milk at such plant after the computations pursuant to § 1033.46 (a)(9) and (b).

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

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1033.30 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) Route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, 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) Route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of fluid milk products from such nonpool plants;

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

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

(d) 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 consumer packages, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and 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 II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

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

(6) If the form in which any fluid milk product is transferred to 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 § 1033.41.

§ 1033.44 Responsibility of handler and reclassification of milk.

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

(b) Producer milk in bulk delivered by a cooperative association as a handler under § 1033.8(c) to the pool plant of another handler or caused to be diverted by the cooperative association from one pool plant to another, shall be deemed to be received as producer milk at the receiving plant and shall be classified according to use or disposition thereat, and the value thereof at the class prices shall be included in the net pool obligation computed for such handler pursuant to § 1033.60. For purposes of location adjustments pursuant to § 1033.53 and administrative expense pursuant to § 1033.76, such milk shall be treated as producer milk of the receiving handler.

§ 1033.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler. If any of the water contained in the milk from which a product is made, is removed before the product is utilized or disposed of by the handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water normally associated with such solids in the form of whole milk.

§ 1033.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1033.45, the market administrator shall determine the classification of producer milk received at each pool plant, and by a cooperative association in its capacity as a handler, each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim

milk classified as Class II pursuant to § 1033.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

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

(3) Except for the first month this subparagraph is effective with respect to each handler, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of bulk fluid milk products (and for the first month this subparagraph is effective with respect to each handler the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (5) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

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

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be prorata to whichever of the following represents the higher proportion of all Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1033.22(k); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(10) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk received in fluid milk products from other pool plants according to classification under § 1033.43(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

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

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

MINIMUM PRICES

§ 1033.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1968, the basic formula price shall be not less than $4.05.

§ 1033.51 Class prices.

Subject to the provisions of § 1033.52 and § 1033.53, the class prices for milk per hundredweight for the month shall be determined by the market administrator as follows:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price for the preceding month plus $1.34 plus 20 cents through April 1968, and plus or minus a "supply-demand adjustment" of not more than 39 cents computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Divide the aggregate pounds of producer milk in Class I milk (including inventory and "overage", but adjusted to eliminate duplications due to interhandler and intermarket plant transfers) under this part and under Part 1034 of this chapter (Miami Valley, Ohio, order) for the second, third, and fourth months preceding by the aggregate pounds of producer milk receipts under such parts for the same months, multiply the result by 100 and round to the nearest whole number. The result shall be known as the "Class I utilization percentage";

(2) For each full percentage point that the Class I utilization percentage is above the applicable maximum standard utilization percentage listed below increase the Class I price differential by 3 cents; and for each full percentage point that the Class I utilization percentage is below the applicable minimum standard utilization percentage listed below decrease such differential by 3 cents.

Month for which price is being computed	Preceding months used in computation	Standard utilization percentages	
		Minimum	Maximum
Jan	Sept., Oct., Nov.	66	69
Feb	Oct., Nov., Dec.	68	71
Mar	Nov., Dec., Jan.	69	72
Apr	Dec., Jan., Feb.	68	71
May	Jan., Feb., Mar.	68	71
June	Feb., Mar., Apr.	66	69
July	Mar., Apr., May	60	63
Aug	Apr., May, June	54	57
Sept	May, June, July	52	55
Oct	June, July, Aug.	53	56
Nov	July, Aug., Sept.	58	61
Dec	Aug., Sept., Oct.	62	65

(3) For the third month this subparagraph is effective, the monthly ending inventory of packaged fluid milk products for the month preceding such month shall be deducted in computing the three months' Class I milk total under subparagraph (1) of this paragraph and the same adjusted monthly Class I milk total shall be used in the 2 successive 3 months' Class I milk total in subparagraph (1) of this paragraph.

(b) *Class II milk.* The Class II milk price shall be the basic formula price for the month except that in no event shall such price exceed an amount computed from the sum of subparagraphs (1) and (2) of this paragraph rounded to the nearest cent, plus 10 cents:

(1) From the Chicago butter price, subtract 3 cents, add 20 percent of the resultnig amount and then multiply by 3.5; and

(2) From the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. Chicago area manufacturing plants, as published for the month by the Department subtract 5.5 cents, resulting amount and then multiply by 0.965.

§ 1033.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 1033.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.127.

(b) *Class II milk.* Multiply the Chicago butter price for the month by 0.115.

§ 1033.53 Location differentials to handlers.

(a) For (1) that skim milk and butterfat in producer milk received at a pool plant located 30 or more miles by the shortest highway distance from the city hall in Cincinnati, Ohio, as determined by the market administrator, and which is (i) moved in the form of a fluid milk product to a pool plant located less than 30 miles from the city hall in Cincinnati, Ohio, and assigned Class I location adjustment credit pursuant to paragraph (b) of this section or (ii) otherwise disposed of as Class I milk, and (2) other source milk for which a location adjustment credit is applicable, the handler's obligation pursuant to § 1033.60 shall be reduced at the rate set forth in the following schedule:

Distance from city hall (miles):	*Rate per hundred weight (cents)*
30 but less than 40	6.0
40 but less than 50	8.0
50 but less than 60	10.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) (1) Fluid milk products received by a handler at a pool distributing plant from another pool plant under paragraph (a)(1) of this section shall be assigned, for Class I location adjustment credit, to the remaining Class I milk at the transferee plant after the application of § 1033.46(a) (1) through (9), on a prorata basis with the aggregate receipts at such plant of producer milk.

(2) If milk eligible for location credit under this paragraph is received from more than one plant, assignment shall be made in sequence beginning with the plant at which the least location adjustment would apply.

§ 1033.54 Use of equivalent prices.

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

Computation of Uniform Price

§ 1033.60 Computation of the net pool obligation of each pool handler.

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

(a) Multiply the quantity of producer milk in each class, computed pursuant to § 1033.46(c), by the applicable class prices and add the resulting amount. Subtract the location differential credits calculated pursuant to § 1033.53;

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1033.46(a)(11) and the corresponding step of § 1033.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(6) and the corresponding step of § 1033.46(b);

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(3) and the corresponding step of § 1033.46(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;

(e) Add an amount equal to the difference between the value at the Class I price and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1033.46(a)(4) and the corresponding step of § 1033.46(b);

(f) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(8) and the corresponding step of § 1033.46(b).

§ 1033.61 Obligations of a 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 14th 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 § 1033.31 (b) and (c) 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 § 1033.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk.

There shall be included in the obligation so computed a charge in the amount specified in § 1033.60(e) and a credit in the amount specified in § 1033.72(b) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1033.31 (b) and (c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1033.13(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

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

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition (other than to pool plants) in the marketing area;

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

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

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

§ 1033.62 Correction of errors.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred following the fifth day after such notice.

§ 1033.63 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 § 1033.60 for all handlers who filed the reports prescribed by § 1033.30 for the month and who made the payments pursuant to § 1033.72 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1033.75;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1033.74 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to §1033.60(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract from the remainder for each of the months of April, May, June, and July an amount computed by multiplying the total hundredweight of producer milk by the following amounts: 20 cents in April; 25 cents in May and June; and 20 cents in July;

(i) Add for each of the months of September, October, November, and December, 20, 30, 30, and 20 percent, respectively, of the total amount of the obligated balance in the producer-settlement fund pursuant to § 1033.71(b) on September 30 of such year;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

Payments for Milk

§ 1033.70 Payments to producers.

(a) On or before the 27th day of each month to each producer who did not discontinue shiping milk to such handler before the 15th day of the month not less than the Class II price for the preceding month, computed to the nearest 50 cents, multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1033.5, or its duly authorized agent, with respect to milk of producers which the market administrator determines have authorized such cooperative association to collect payment for their milk and the cooperative association has presented the handler with a written request for such payments. Payments to the cooperative association under this paragraph shall be made one day in advance of the applicable payment date in paragraph (a), subject to the condition that the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim with respect to such payments on the part of the cooperative association.

§ 1033.71 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1033.61 (a) and (b) and 1033.72 shall be deposited in this fund, and all payments made pursuant to § 1033.73 shall be made out of this fund;

(b) All amounts subtracted pursuant to § 1033.63(h) shall be deposited in this fund and shall remain therein as an obligated balance until withdrawn for the purpose of effectuating § 1033.63(i); and

(c) The difference between the amount added pursuant to § 1033.63(d) and the amount resulting from the subtraction pursuant to § 1033.63 (f) or (k) shall be deposited in, or withdrawn from, this fund, as the case may be.

§ 1033.72 Payments to producer-settlement fund.

On or before the 14th day after the end of each month, each handler shall pay to the market administrator his obligation for milk for such month of which he is notified pursuant to § 1033.22(i)(1) which shall consist of the amount specified in paragraph (a) of this section minus the amount of the credit in paragraph (b) of this section, less the amount paid out to each producer in accordance with § 1033.70, and less the amount of the deductions and charges authorized by such producer which are itemized on the handler's producer payroll:

(a) The total of the net pool obligation computed pursuant to § 1033.60 for such handler;

(b) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be

less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1033.60(e).

In the calculation of the total amount of the deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer shall not be greater than an amount which, when added to the payment made to such producer in accordance with § 1033.70 (inclusive of the deductions and charges authorized by § 1033.70) will not exceed the total value of the milk received from such producer.

§ 1033.73 Payments from producer-settlement fund.

(a) The market administrator shall compute the payment due each producer for milk received during the month from such producer by a handler(s) who made the payments for such month pursuant to § 1033.72, by multiplying the hundredweight of such milk by the uniform price computed pursuant to § 1033.63 adjusted by the location differential pursuant to § 1033.75 and the butterfat differential pursuant to § 1033.74, and subtracting any charges and deductions made pursuant to § 1033.72.

(b) On or before the 17th day of the following month, the market administrator shall pay, subject to the provision of § 1033.77, direct to each producer who has not authorized a cooperative association to receive payments for such producer, the amount of the payment calculated for such producer pursuant to paragraph (a) of this section.

(c) On or before the 16th day of the following month, the market administrator shall pay to each cooperative association authorized to receive payments due producers who market their milk through such cooperative association, the aggregate of payment calculated pursuant to paragraph (a) of this section, for all producers certified to the market administrator by such cooperative association as having authorized such cooperative association to receive such payment.

§ 1033.74 Butterfat differential to producers.

In computing the payments due each producer for milk pursuant to § 1033.73, there shall be added to or subtracted from the uniform price per hundredweight for each one-tenth of 1 percent of butterfat content in such milk above or below 3.5 percent, as the case may be, a butterfat differential computed by the market administrator as follows:

(a) Compute the percentage of the total butterfat in producer milk assigned to each class pursuant to § 1033.46;

(b) Multiply each such percentage figure by the butterfat differential for the respective class pursuant to § 1033.52; and

(c) Add into one total the value obtained in paragraph (b) of this section, rounding off the result to the nearest even one-tenth cent.

§ 1033.75 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1033.53; and

(b) For purposes of computations pursuant to § 1033.72 the weighted average price shall be adjusted at the rates set forth in § 1033.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1033.76 Expense of administration.

As his prorata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1033.8(c) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 14th day after the end of the month, 2 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

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

(b) Other source milk allocated to Class I pursuant to §§ 1033.46(a)(4) and 1033.46(a)(8) and the corresponding step of § 1033.46(b); and

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

§ 1033.77 Marketing services.

(a) The market administrator shall deduct an amount not exceeding 6 cents per hundredweight (the exact amount to be determined by the market administrator) from the payments made pursuant to § 1033.73(b), with respect to the milk of those producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association for the purpose of performing the services set forth in paragraph (b) of this section.

(b) The monies received by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information to, and for the verification of weights, samples, and tests of milk of producers for whom a cooperative association, as described in paragraph (a) of this section, is not performing the same services on a comparable basis, as determined by the market administrator, subject to review by the Secretary.

§ 1033.78 Termination of obligation.

(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 be complete upon mailing to the handler's last known address and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books 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 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.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part, shall terminate 2 years after the end of the calendar month during which milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1033.80 Effective time.

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

§ 1033.81 Suspension or termination.

Any or all provisions of this part, or amendments to this part, shall be suspended or terminated as to any or all handlers after such reasonable notice as

the Secretary may give, and shall terminate in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 1033.82 Continuing power and duty of the market administrator.

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, of by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination. 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. The market administrator, or such other person as the Secretary may designate, shall continue in such capacity until removed by the Secretary, account from time to time 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 other person to such person as the Secretary shall direct, and execute, if so directed by the Secretary, such 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.

§ 1033.83 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 amount necessary to meet outstanding obligations and the expense necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1033.90 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or repersentative in connection with any of the provisions of this part.

§ 1033.91 Separability of provisions.

If any provision of this part, or its application to any persons or circumstances, is held invalid the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1033.92 Plants subject to other Federal orders.

The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which the milk at such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant meets the requirements for a pool plant pursuant to § 1033.13 and a greater volume of fluid milk products is disposed of from such plant to pool plants and to retail or wholesale outlets located in the Greater Cincinnati marketing area than in the marketing area regulated pursuant to such other order during the current month and each of the 3 months immediately preceding. The operator of a distributing plant or a supply plant which is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the 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.

Signed at Washington, D.C., on March 19, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-3548; Filed, Mar. 22, 1968; 8:45 a.m.]

[7 CFR Part 1090]

[Docket No. AO-266-A10]

MILK IN CHATTANOOGA, TENN., MARKETING AREA

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

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

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Chattanooga, Tenn., on November 29 and 30, 1967, pursuant to notice thereof which was issued November 1, 1967 (32 F.R. 15437).

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

1. Marketing area;
2. Pooling standards for distributing plants;
3. Producer-handler definition;
4. Classification of butterfat dumped;
5. Shrinkage provisions;
6. "Custom bottling" provision;
7. Class I butterfat differential;
8. Revision of excess price computation; and
9. Pricing filled and imitation milk.

This decision deals only with Issues 1 through 8. A notice of hearing issued February 6, 1968 (33 F.R. 2785) for all Federal milk orders reopens the Chattanooga hearing held on November 29 and 30, 1967, for the limited purpose of considering Issue 9. Issue 9 will therefore be dealt with in a later decision.

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. *Marketing area.* The Chattanooga marketing area should be expanded to include the additional counties of Marion, Meigs, Monroe, Polk, Rhea, and Sequatchie in Tennessee, and Catoosa, Chattooga, Dade, Fannin, Gilmer, Gordon, Murray, Walker, and Whitfield in Georgia. The proposal to include Bledsoe County, Tenn., and Union County, Ga., in the marketing area is denied.

The Chattanooga Area Milk Producers Association, which represents about three-fourths of the producers on the market, proposed that all the above-named counties be included in the marketing area. Inclusion of the seven Tennessee counties was proposed also by four handlers regulated under the Chattanooga order.

Since the inception of the order in 1956, the Chattanooga marketing area has been limited to the Tennessee counties of Bradley, Hamilton, and McMinn. Factors such as new and improved roads, refrigerated trucks, and single-service milk cartons have prompted regulated handlers to develop substantial fluid milk sales in surrounding areas. Under current marketing conditions, the present three-county marketing area does not constitute the proper marketing area and should be enlarged as proposed herein.

All handling of milk and milk products in this proposed marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and its products. The minimum sanitary requirements applicable to Grade A milk handled throughout the proposed enlarged

marketing area is patterned after the U.S. Public Health Ordinance and Code and is uniformly administered by State and county authorities.

The 1960 census population of the proposed 18-county marketing area is 582,700. Over half of the population (309,900) is in the present three-county marketing area, in which is located the major portion of the Chattanooga metropolitan area. The 1960 population of the additional counties in the proposed area is as follows: In Tennessee—Monroe (23,300), Marion (21,000), Rhea (15,900), Polk (12,200), Sequatchie (5,900), and Meigs (5,200); in Georgia—Walker (45,300), Whitfield (42,100), Catoosa (21,100), Chattooga (20,000), Gordon (19,200), Fannin (13,600), Murray (10,400), Gilmer (8,900), and Dade (8,700).

Chattanooga order handlers are, by a wide margin, the principal milk distributors in the six Tennessee counties. In Meigs, Rhea, and Sequatchie Counties, 90 perecnt or more of the total fluid milk sales in each county is by such handlers. These handlers also account for about 85 percent of the route sales in Polk and Marion Counties and for about 70 percent of the sales in Monroe County. Except in Polk County, the remaining distribution in these counties is from either Knoxville or Nashville order plants: About 10 to 14 percent of the Polk County route sales is from a federally unregulated plant at Anderson, S.C., that is not expected to become fully regulated under the order.

These six counties surround much of the present marketing area and are an integral part of the sales areas of the Chattanooga order handlers. In view of the high proportion of Class I sales in each county by these handlers, it is appropriate that they be a part of the Chattanooga marketing area. This action will assure regulated handlers now having the major portion of the Class I sales in those counties that other handlers who may compete for such sales in these areas will be subject to the same regulation. There was no opposition to the inclusion of these counties in the marketing area.

Bledsoe County, Tenn., is not a significant distribution area for Chattanooga order handlers and should not be a part of the marketing area. Such handlers have 10 percent or less of the total sales in the county. The major part of the county's sales are by Knoxville order handlers who account for almost two-thirds of the total. Handlers under the Nashville order sell the remaining amount.

Of the nine Georgia counties proposed herein to be a part of the marketing area, Chattanooga order handlers presently have route sales in all but Gilmer County. One regulated handler, at Rossville in Walker County, distributes 38 percent of his total Class I milk in seven of the nine counties. A regulated handler at Chattanooga has 45 percent of his total Class I sales in seven of these counties. Another regulated handler at Athens, Tenn., has Class I sales in four of the nine Georgia counties.

All Class I sales in Dade County are by Chattooga order handlers.

Of the nine Georgia counties, Walker, Catoosa, Whitfield, and Chattooga Counties are the most heavily populated. Class I sales by regulated handlers in these four counties range from 72 to 97 percent of the total fluid milk sales in each county. The remaining sales are by four unregulated handlers at Ringgold, Calhoun, Rome, and Atlanta, Ga., and by another at Gadsden, Ala. On the basis of their present sales, the handlers at Ringgold and Gadsden would become regulated with the inclusion in the marketing area of these four counties in which regulated handlers have a large proportion of the total fluid milk sales.

With the regulation of the Ringgold and Gadsden handlers, all route sales in Murray County and about two-thirds of the route sales in Fannin, Gilmer, and Gordon Counties would be by regulated handlers. The inclusion of Gordon County in the marketing area would result in the regulation of the previously mentioned Calhoun handler who has about two-thirds of his sales in this county. This handler also has sales in Whitfield County which is proposed to be included in the marketing area.

Ideally, the marketing area boundaries are drawn both to encompass that territory wherein the same handlers compete with each other for Class I sales and to minimize overlapping sales areas with unregulated handlers. The inclusion in the marketing area of the nine Georgia counties proposed herein will best achieve this goal. Of the three handlers that would become fully regulated under the order, the one at Ringgold would have all his sales within the marketing area and a substantial portion (about 75 percent) of the Calhoun handler's sales would be "in-area" sales. About 20 percent of the Gadsden handler's fluid milk sales would be within the marketing area.

Only three handlers not regulated under any Federal order would have sales in the proposed marketing area. The handler at Rome presently distributes about 5 percent of his total fluid milk products in Chattooga County. The Atlanta handler has some sales in Chattooga and Gordon Counties, apparently a minor amount. The previously mentioned South Carolina handler has, in addition to his sales in Polk County, Tenn., about one-third of the total fluid milk sales in Fannin and Gilmer Counties. It is not expected that his sales in the marketing area would be sufficient to cause him to be regulated under the order.

Extending the Chattanooga marketing area to include the nine Georgia counties proposed herein is necessary to assure that regulated handlers are not competitively disadvantaged on a substantial amount of their Class I sales. The regulated handlers are required to pay producers minimum Class I prices for all fluid milk distributed on routes in the proposed area. The federally unregulated handlers are not subject to a comparable classified pricing plan, however, and are able to purchase milk from dairy farmers for sale in this area at a lesser cost.

State regulatory agencies in Georgia, Alabama, and South Carolina have administered for many years some form of classified pricing that has been applicable to those federally unregulated handlers distributing milk in the proposed marketing area. In 1967, the price fixing authority of the Georgia Milk Commission was declared unconstitutional. In the absence of administered prices, marketing conditions in northern Georgia have deteriorated and dairymen and handlers there are experiencing considerable uncertainty about the pricing of milk.

Prices that unregulated Georgia handlers are paying for milk do not reflect its use value. Many Georgia handlers base their price to dairy farmers on a certain percentage of their wholesale price for packaged milk. This price paid by handlers for Class I milk has been decreasing as a result of lowering their wholesale prices, often by discounts, in an attempt to either gain new sales outlets or to merely remain competitive with other handlers.

Chattanooga order handlers who compete with the unregulated Georgia handlers must pay, of course, the minimum order price for their Class I milk. Any reduction in their wholesale prices to meet competition cannot be passed on to their producers as is now the case with the unregulated Georgia handlers. Inclusion of those Georgia counties in which regulated handlers (including those who will become regulated by the area expansion) have a significant portion of their Class I sales will assure that these handlers will not be competitively disadvantaged on the cost of their milk.

The two Georgia handlers who would become regulated under the order receive milk from six to 10 dairy farmers. Although most of this milk is for Class I use, the handlers pay only a price approximating the Chattanooga order blend price. In 1967, there was a difference of 56 cents per hundredweight between the average Chattanooga order Class I price of $6.08 and the average order blend price of $5.52.[1] Both handlers rely regularly on the proponent cooperative for supplemental milk supplies during the short-production months and thus do not share the financial burden of disposing of surplus milk supplies customarily associated with the production of milk for a Class I market. Neither handler appeared at the hearing and there is no indication that either opposes the proposed area expansion.

Although the State regulatory agencies in South Carolina and Alabama are presently administering classified pricing plans, the price-fixing authority is limited to intrastate business. Milk sold outside the State is not subject to administered prices. Thus, the price regulations of these State agencies provide

[1] Official notice is taken of the market administrator's price announcements for the months of November and December 1967 which provide price data not available at the time of the hearing.

no assurance that the handlers in these States who sell milk in competition with Chattanooga order handlers are or will be paying comparable prices for such milk.

The Gadsden, Ala., handler indicated that 92 percent of his receipts is used in fluid milk products. The handler receives milk from 50 dairy farmers in Alabama, 12 in Georgia, and 43 in Tennessee. While the farm price to Alabama dairymen is set by the Alabama Milk Commission, the handler may negotiate with dairymen in the other States on the prices he will pay for their milk. The farm price which this handler pays to dairymen in each of the States is usually different and there is no fixed relationship from month to month between the price levels for each group of farmers. The farm prices paid by this handler do not necessarily reflect his plant utilization. The handler did not indicate any opposition to the proposed area expansion in his hearing testimony but did oppose the area proposal in his brief.

Union County, Ga., should not be a part of the marketing area. Present Chattanooga order handlers have no sales in this rural county (1960 population, 6,500). The Gadsden handler that would become regulated by virtue of adding other counties has about one-third of the county's total fluid milk sales. The remaining sales are by handlers that would not be regulated under a Federal order. The limited amount of regulated milk that would be sold in the county does not warrant the inclusion of the county in the marketing area.

Some Georgia dairy farmer associations opposed the inclusion of any Georgia counties in the Chattanooga marketing area until after a hearing is held on their proposal for a statewide Federal milk order. They contend that evidence obtained at their contemplated hearing should be considered before a decision to add any Georgia counties to the marketing area is issued.

All interested parties were given full opportunity to present evidence on all proposals considered at the hearing. The record of this hearing is fully adequate and is the proper and appropriate basis for the conclusion reached on the proposed marketing area. The request to delay the issuance of the decision is denied.

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

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing, and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

2. *Pooling standards for distributing plants.* The "in-area" route disposition requirement for pooling a distributing plant should be changed from 20 to 15 percent of its Class I disposition during the month.

In addition to the in-area Class I sales to qualify for pooling, a distributing plant must also dispose of not less than 50 percent of its receipts on routes (both inside and outside the marketing area) during the month. There was no proposal to change the 50 percent requirement. The proposal to change the in-area disposition requirement of a plant from 20 to 15 percent was proposed by producers and supported by handlers.

The requirement that a plant must have 20 percent of its Class I disposition on routes in the marketing area has been in the Chattanooga order since its inception in 1956. Producers state that whatever justification there may have been for that provision then is not valid today. Current marketing conditions in the present and proposed marketing area, producers contend, do not now justify the 20 percent in-area sales requirement. The quantities of milk handled by handlers now on the market are substantially greater on the average than they were at the time the order was established. Accordingly, producers claim the quantity of milk represented by 15 percent of a handler's total monthly Class I sales is substantially larger today than was 20 percent of such monthly sales in the early years of the order.

A plant with 15 percent of its Class I disposition in the marketing area is sufficiently associated with the regulated market to be a competitive influence on fully regulated handlers. Accordingly, such a plant should be fully regulated on the same terms and conditions as are binding on other fully regulated handlers.

The 15 percent factor herein proposed is more representative of the percentage factors customarily used in Federal orders than is the 20 percent factor now employed in the Chattanooga order. In fact, relatively few Federal orders now have a percentage factor as high as the present 20 percent in-area sales requirement of the Chattanooga order.

The principal purpose of a minimum in-area disposition requirement to qualify a distributing plant for pooling is to assure that it is associated with the market in a significant and regular manner. Otherwise, dairy farmers and handlers who ordinarily have no affiliation with the market could casually or incidentally associate themselves with the market when it was to their advantage to share unwarrantedly in the Class I proceeds of the market. The pooling requirement that 15 percent of a plant's Class I sales be disposed of on routes in the marketing area not only will provide a safeguard against such an exploitation of the pool but also will provide an appropriate measure of a plant's association with the market.

The proposed in-area route disposition requirement for pooling would not restrict any milk plant operator from disposing of any fluid milk products in the marketing area. Any plant having more than a minor, or accidental, association with the fluid milk market could be eligible for pooling. On the other hand, the operator of any plant only marginally associated with the fluid milk market has a reasonable opportunity to make a choice of full or partial regulation, whichever might better serve his interest.

3. *Producer-handler definition.* The "producer-handler" definition should provide (1) that a producer-handler may receive fluid milk products only from his own production and from pool plants, and (2) that he should be required to provide proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing, packaging, and distribution business are his personal enterprise and risk.

The producer-handler definition herein provided was proposed by producers and is similar to that provided in many other Federal orders. The second condition specified above for qualifying as a producer-handler is not now included in the order. The record does not indicate that there are presently any producer-handlers on the market or that there are any in the proposed enlarged marketing area. The definition herein proposed will, however, tend to insure that should such an operation come on the market it would be a bona fide producer-handler operation.

Handlers proposed that a person whose Class I sales are in excess of 100,000 pounds per month should not be permitted to qualify as a producer-handler. As proposed by handlers, such a person would be a fully regulated handler with respect to his plant operation and route distribution; with respect to his own farm production, he would be treated as any other producer. Handlers also proposed that a producer-handler should be required to pay the market administrator the administrative expense on his own farm production in the same manner as a handler is required to make such payment on producer milk.

Since there are no producer-handlers now on the market, the proposals made by handlers would not correct any apparent inequity in the market or resolve any problem that now exists in marketing milk in the area. Therefore, no action should be taken on these proposals at this time.

4. *Classification of butterfat dumped.* The skim milk and butterfat disposed of by a handler for livestock feed or dumped should be classified as Class II milk. The order now provides a Class II classification for skim milk dumped or used as livestock feed but not for butterfat.

In proposing a Class II classification for butterfat dumped or disposed of as livestock feed, handlers emphasized that they are not obtaining such skim milk and butterfat without cost and will actually pay the Class II price which will not be recovered. They cited, too, that a Class II classification for butterfat disposed of as livestock feed and dumpage is recognized as appropriate classification in other orders and is no less appropriate under the Chattanooga order.

There is no practical way in which to salvage the butterfat in milk and milk products dumped or disposed of as livestock feed. These outlets often represent the most economical method of disposing of surplus skim milk and route returns. Transportation and handling costs are such that it is uneconomical to ship relatively small quantities of unneeded skim milk and route returns to trade outlets. In the case of route returns of such products as homogenized milk and chocolate milk, it is difficult and impractical to salvage the butterfat for further use.

It would not be practicable to permit unlimited dumping by pool plant handlers without being subject to verification. Neither would it be appropriate to classify butterfat for which no better outlet is available in other than Class II. Accordingly, the order should clearly specify a Class II classification for skim milk and butterfat dumped with the condition that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

5. *Shrinkage provisions.* The maximum shrinkage allowance in Class II of each handler should be 2 percent of producer milk (except that diverted to a nonpool plant) and of milk received as diverted milk from Knoxville order pool plants, plus 1.5 percent of bulk fluid milk products received from pool plants of other handlers, and less 1.5 percent of bulk fluid milk products transferred to other plants. A 1.5 percent shrinkage allowance should be allowed on bulk fluid milk products received from other order plants and unregulated supply plants (exclusive of the quantity for which a Class II utilization is requested by the handler).

A Class II shrinkage of 2 percent is now allowed on producer milk (except that diverted to a nonpool plant) and on receipts of bulk fluid milk products from other order plants and unregulated supply plants (exclusive of the quantity for which a Class II utilization was requested by the handler).

The changes provided herein, which were those proposed by handlers, recognize the current methods of handling milk in the market and provide an equitable division of shrinkage among handlers.

A greater shrinkage is experienced at a plant in the processing, packaging and manufacturing operations than in the single function of receiving milk from dairy farmers and from other plants. The proposed shrinkage provisions recognize this on transfers between plants by allocating 0.5 percent of the shrinkage allowance to the plant where milk is received and 1.5 percent to the plant where the milk is actually processed. This division of the 2 percent shrinkage allowance has been found practicable and is generally applied in Federal orders.

Although a shrinkage allowance for the transferee plant is appropriate on transfers of milk and skim milk between plants, bulk cream most frequently is moved from a pool plant to other facilities for further processing into manufactured dairy products such as butter and ice cream. The major loss in handling cream is in the separation process whereby the bulk cream is removed from the milk. It is appropriate, therefore, to allocate the full shrinkage allowance allocable to the cream to the milk at the plant at which the cream was separated, the transferor pool plant.

The order now provides that milk received as diverted milk from a Knoxville order pool plant shall be exempt from the pricing and pooling provisions of the Chattanooga order. Such diverted milk is moved directly from the farm to the Chattanooga pool plant. No shrinkage allowance is allowed in the Knoxville order on this milk. The physical handling of this milk at the Chattanooga pool plant is the same as on producer milk. It is no less appropriate, therefore, that the 2 percent Class II shrinkage allowance on producer milk likewise be applicable on such diverted milk.

6. *"Custom bottling" provision.* The order should be amended to enable a handler to receive packaged fluid milk products from a federally unregulated plant (without a compensatory payment charge) if an equivalent amount of Class I milk under the order was transferred or diverted to that plant. Handlers made such a proposal and it was unopposed at the hearing.

It is not always economically practicable for a handler to package every fluid milk product sold by him in the various sizes and types of containers demanded by the trade. When some such items are not prepared in their plants, handlers may obtain them from other plants. It is necessary, however, to protect the integrity of the pool by insuring that such products received at pool plants are subject to the same treatment as other fluid milk products handled at the plant.

If Class I milk is transferred or diverted from pool plants to a federally unregulated plant in an amount equal to the packaged fluid milk products received from the unregulated plant, the integrity of the pool will be insured. On the other hand, if the quantity of packaged fluid milk products received from the unregulated plant exceeds the amount of Class I milk transferred or diverted from pool plants, the difference would be treated the same as other source milk received from an unregulated plant; that is, it would be subject to a payment to the pool at the difference between the Class I and uniform prices for the quantity allocated to Class I at the receiving handler's plant.

Incorporation of the proposed provision in the Chattanooga order will contribute to orderly marketing and to the optimum utilization of producer milk.

7. *Class I butterfat differential.* The butterfat differential applicable to Class I milk should be 12 percent of the Chicago butter price for the preceding month (instead of 13 percent as now provided in the order).

The differential herein provided, which was proposed by producers, has wide acceptance and is the Class I butterfat differential most applicable in other Federal orders. In 1967, the proposed differential would have averaged 8 cents. The actual average Class I butterfat differential for 1967 was 8.6 cents.

The lower Class I butterfat differential will allocate less value to the butterfat in Class I milk and more value to the skim milk portion. In 1967, when the Class I price averaged $6.08, the value of 3.5 pounds of butterfat in a hundred pounds of milk was $3.01 (35×8.6 cents). The skim milk portion of such hundred pounds of milk was valued at $3.07.

The proposed butterfat differential of 12 percent of the Chicago butter price would have valued the butterfat in a hundred pounds of milk in 1967 at $2.80 (35×8 cents). This is 21 cents less than the value of 3.5 pounds of butterfat in a hundred pounds of milk under the Chattanooga order in the same period. Had such a differential been in effect, however, the value of the skim milk portion of the milk would have been increased by 21 cents.

A number of fluid milk products on the market have a proportionately higher percentage of solids-not-fat (e.g., fortified or modified skim milk). With a relatively high Class I butterfat differential, producers do not receive their appropriate share of the Class I sales value represented by the solids-not-fat portion of fluid milk products.

The proposed Class I butterfat differential is identical with that provided in the nearby Federal order markets of Knoxville, Nashville, Appalachian, and Memphis. Hence, it will contribute to orderly marketing by pricing the butterfat in fluid milk competitively with butterfat for Class I uses from alternative sources of supply.

8. *Revision of excess price computation.* The 4-cent (per hundredweight) deduction that is now made in computing the uniform price for excess milk should be discontinued. This will insure a price for excess milk in the base-paying months of March through July of not less than the Class II price.

In computing uniform prices, the order provides for setting aside specified amounts as a producer-settlement fund reserve. In all months, one-half the unobligated balance in the producer-settlement fund is set aside in the uniform price computation. In addition, for the months of August through February, an amount of between 4 and 5 cents per

hundredweight of all producer milk is included in the reserve.

In the base-paying months of March through July, the order now provides for deducting 4 cents per hundredweight of excess milk and between 4 and 5 cents per hundredweight of base milk in computing the uniform prices for base and excess milk. Since excess milk under the order has most usually been classified in Class II, the 4-cent deduction has resulted in an excess price 4 cents less than the Class II price.

Producers proposed removing the 4-cent deduction in computing the uniform price for excess milk. They cite an inequity in returning to producers a uniform price for excess milk that is less than the Class II price. They also argue that the 4-cent reduction in the excess milk price has provided an undue enhancement of the uniform price for base milk at the expense of the excess milk price. Discontinuing the 4-cent deduction in computing the excess milk price as herein proposed, will correct an inequity that has existed under the order.

The adequacy of the producer-settlement fund reserve will not be impaired by the change proposed herein. Experience has indicated that a monthly set-aside of one-half the unobligated balance in the producer-settlement fund plus an amount of between 4 and 5 cents per hundredweight of base milk will insure the adequacy of the producer-settlement fund reserve in the base-paying months of March through July.

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 order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) 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 amending the order as amended regulating the handling of milk in the Chattanooga, Tenn., marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Section 1090.3 is revised to read as follows:

§ 1090.3 Chattanooga, Tenn., marketing area.

The Chattanooga, Tenn., marketing area, hereinafter called the "marketing area", means all the territory within the boundaries of the following counties:

In Tennessee

Bradley.	Monroe.
Hamilton.	Polk.
Marion.	Rhea.
McMinn.	Sequatchie.
Meigs.	

In Georgia

Catoosa.	Gordon.
Chattooga.	Murray.
Dade.	Walker.
Fannin.	Whitfield.
Gilmer.	

2. Section 1090.7(a) is revised to read as follows:

§ 1090.7 Pool plant.

* * * * *

(a) Milk distributing plant approved or recognized by a duly constituted health authority for the receiving or processing of Grade A milk and from which Class I milk equal to not less than 50 percent of its receipts of milk from other pool plants and from approved dairy farmers is disposed of during the month on routes and from which Class I milk equal to not less than 15 percent of its total Class I disposition is disposed of during the month on routes in the marketing area

* * * * *

3. Section 1090.10 is revised to read as follows:

§ 1090.10 Producer-handler.

"Producer-handler" means an approved dairy farmer who:

(a) Operates a plant from which Class I milk is disposed of on routes in the marketing area;

(b) Receives no fluid milk products from other dairy farmers or from sources other than pool plants; and

(c) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing, packaging, and distribution business are the personal enterprise and risk of such person.

4. In § 1090.41(b), subparagraphs (4) and (5) are revised to read as follows:

§ 1090.41 Classes of utilization.

* * * * *

(b) * * *

(4) Disposed of and used as livestock feed, or dumped after prior notification to, and opportunity for verification by, the market administrator;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1090.42(b)(1) but not to exceed the following:

(i) Two percent of producer milk (except that diverted pursuant to § 1090.6) and milk that is received as diverted milk and that is subject to the pricing and pooling provisions of Part 1101 (Knoxville) of this chapter;

(ii) Plus 1.5 percent of fluid milk products received in bulk from pool plants of other handlers;

(iii) Plus 1.5 percent of receipts of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of such plants and the handler;

(iv) Plus 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(v) Less 1.5 percent of fluid milk products (except cream) transferred in bulk to pool plants and nonpool plants; and

* * * * *

5. In § 1090.46(a), a new subparagraph (1–a) is added to read as follows:

§ 1090.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1–a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products received from an unregulated supply plant or the pounds of skim milk classified as Class I milk and transferred or diverted during the month to such plant, whichever is less;

* * * * *

6. Section 1090.52(a) is revised to read as follows:

§ 1090.52 **Butterfat differentials to handlers.**

* * * * *

(a) Multiply the Chicago butter price for the preceding month by 0.12; and

* * * * *

7. In § 1090.72, paragraphs (b) and (d) are revised to read as follows:

§ 1090.72 **Computation of uniform prices for base milk and excess milk.**

* * * * *

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers; and

* * * * *

(d) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section times the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

* * * * *

Signed at Washington, D.C., on March 19, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-3546; Filed, Mar. 22, 1968; 8:48 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Industrial Development Bonds; Hearing

The proposed amendment to the regulations under section 103 of the Internal Revenue Code relating to interest on certain governmental obligations appears in this issue of the FEDERAL REGISTER (Mar. 23, 1968).

A public hearing on the provisions of this proposed amendment to the regulations will be held starting on Monday, May 20, 1968, at 10 a.m., e.d.s.t., and continuing if necessary on May 21. The hearing will be held in Conference Room B, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

Persons who plan to attend the hearing are requested to notify the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by May 13, 1968. Notification of intention to attend the hearing may be given by telephone, 202-964-3935.

Lester R. Uretz,
Chief Counsel.

By: JAMES F. DRING,
Director, Legislation and
Regulations Division.

[F.R. Doc. 68-3613; Filed, Mar. 22, 1968; 10:14 a.m.]

[26 CFR Part 1]

INCOME TAX

Industrial Development Bonds

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at the public hearing which will be held on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. Notice of the time, place, and date of the public hearing is published simultaneously herewith. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

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

In order to provide rules for the treatment accorded interest on industrial development bonds, the Income Tax Regulations (26 CFR Part 1) under section 103 of the Code, relating to interest on certain governmental obligations, are amended by adding after § 1.103-6 the following new section:

§ 1.103-7 **Industrial development bonds.**

(a) *Treatment of industrial development bonds.* An industrial development bond (as defined in paragraph (b) of this section) shall not be considered to be an obligation of a State, a territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia within the meaning of section 103(a)(1) and § 1.103-1 (hereinafter referred to as a "governmental unit").

(b) *Definition of industrial development bonds.* (1) The term "industrial development bond" means any indebtedness issued by a governmental unit if under the terms of such indebtedness or any underlying lease, deferred payment sale, loan or similar arrangement—

(i) One or more identifiable persons other than a governmental unit have the use of, or the right to use, all or a major portion of the proceeds, or property acquired with the proceeds, of such indebtedness,

(ii) Such person is required to provide all or a major portion of the funds necessary to pay the principal and interest on such indebtedness, and

(iii) The payment of the principal and interest on such indebtedness is secured in whole or in major part—

(*a*) By a security interest (as defined in subparagraph (2) of this paragraph) in such property, or

(*b*) By an interest in (or to be derived from) payments to be made with respect to such property or to such loan.

Such indebtedness, although issued by a governmental unit, is in reality the indebtedness of a person other than a governmental unit since under the terms of the indebtedness or any underlying lease, deferred payment sale, loan or similar arrangement the governmental unit serves as a conduit for disbursing funds provided by such person, and the liability for providing the funds to pay the principal and interest on the indebtedness is that of such person. Similarly, the status of such indebtedness of a person other than a governmental unit is not changed by the agreement of a governmental unit to guarantee the indebtedness of such person.

(2) For purposes of subparagraph (1) of this paragraph, the term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an indebtedness.

(3) For purposes of subparagraph (1)(i) of this paragraph, use of property by a person other than a governmental unit exists only if, under the lease, deferred payment sale, loan, or similar arrangement, a major portion of any direct economic benefit to be derived from property (other than property described in subdivision (ii) of this subparagraph) may inure to such a person. Thus, a person other than a governmental unit will not be considered, for purposes of subparagraph (1)(i) of this paragraph, to have the use of, or the right to use, property if—

(i) Such property is owned by a governmental unit and such person is operating or managing the property on behalf of a governmental unit and does not have rights with respect to such property such that a major portion of any direct economic benefit to be derived from such property may inure to a person other than a governmental unit, or

(ii) Such property is functionally related to a facility owned by a governmental unit that is or will be operated or managed by or on behalf of the governmental unit, and such property is operated as an integral part of the entire facility.

(4) Examples: The provisions of this section may be illustrated by the following examples:

Example (1). (a) Governmental unit A and corporation X enter into an agreement under which the governmental unit is to provide a factory which corporation X will lease for 20 years. The agreement provides (1) that the governmental unit will issue $10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and to construct and equip a factory in accordance with corporation X's specifications, (3) that corporation X will rent the facility for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by corporation X and the facility itself shall be the security for the bonds.

(b) The bonds are industrial development bonds since (1) the facility will be used by corporation X, (2) corporation X is required to provide the funds needed to pay the principal and interest on the bonds, and (3) the payment of principal and interest on the bonds is secured by an interest in the payments by corporation X and the facility.

Example (2). (a) The facts are the same as in example (1) except that, instead of providing that corporation X will lease the facility for 20 years, the agreement provides (1) that corporation X will purchase the facility and (2) that annual payments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds will be made by corporation X.

(b) The bonds are industrial development bonds and, therefore, are not obligations of governmental unit A for the reasons set forth in example (1).

Example (3). (a) Governmental unit A and corporation X enter into an agreement under which the governmental unit is to lend $10 million to corporation X. The agreement provides (1) that governmental unit will issue $10 million of bonds, (2) that the proceeds of the bond issue will be lent to corporation X to provide additional working capital and to finance the acquisition of certain new machinery, (3) that corporation X will repay the loan in annual installments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that the payments on the loan and the machinery shall be security for the bonds.

(b) The bonds are industrial development bonds since (1) corporation X will use all of the proceeds, (2) corporation X is required to provide the funds necessary to pay the principal and interest on the bonds, and (3) the payment of the principal and interest on the bonds is secured by an interest in payments made with respect to the loan or property acquired with the proceeds of the loan.

Example (4). (a) The facts are the same as in example (1), (2), or (3) except that the annual payments required to be made by corporation X exceed the amount necessary to amortize the principal and pay the interest on the outstanding bonds.

(b) The bonds are industrial development bonds since the conditions of subparagraph (1) of this paragraph are satisfied. The fact that corporation X is required to pay an amount in excess of the amount necessary to pay the principal and interest on the bonds does not affect their status as industrial development bonds.

Example (5). (a) The facts are the same as in example (1), (2), (3), or (4) except that the bonds are general obligation bonds and governmental unit A is required to pay principal and interest out of general revenues in the event of a default by corporation X.

(b) The bonds are industrial development bonds since (1) the proceeds of the bond issue or the property acquired with such proceeds will be used by corporation X, (2) corporation X is required to provide the funds needed to pay the principal and interest on the bonds, and (3) the payment of principal and interest on the bonds is secured by an interest in the payments by corporation X and by the property acquired with the proceeds of the bond issue. Governmental unit A's agreement to pay the principal and interest out of general revenues is, in effect, a guarantee of corporation X's indebtedness.

Example (6). (a) Governmental unit A issues $10 million of general obligation bonds to purchase land and construct an apartment building. The bond indenture provides (1) that governmental unit A will operate the building as a rental facility and (2) that the building itself and the rental payments (if any) shall be the security for the bonds. At the time the bonds are initially sold there is no lease or other arrangement with any person to rent the building. Bond purchasers are relying on the revenues of governmental unit A, and the ability of A to secure tenants, rather than the obligation of any identifiable lessee to provide the funds necessary to pay the principal and interest on the bonds.

(b) The bonds are not industrial development bonds since under the terms of the bond indenture (1) no identifiable person other than governmental unit A has the use of, or the right to use, the proceeds or property to be acquired with the proceeds of the bond issue at the time the bonds are initially sold, and (2) no identifiable person other than governmental unit A is required to provide any of the funds necessary to pay the principal and interest on the bonds.

Example (7). (a) Governmental unit A and corporation X enter into an agreement under which corporation X will lease for 20 years the first three floors of a 12 story office building to be constructed by the governmental unit. The remaining nine floors of the building are to be occupied by the governmental unit. The agreement provides (1) that the governmental unit will issue $10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and construct an office building, (3) that corporation X shall pay an annual rental of $200,000, and (4) that such rental payments and the building itself shall be security for the bonds.

(b) The bonds are not industrial development bonds since (1) corporation X does not have a right to use a major portion of the property acquired with the proceeds of the bond issue and (2) corporation X will not provide a major portion of the funds necessary to pay the principal and interest on the bonds.

Example (8). (a) Governmental unit A issues $20 million of bonds to build a stadium. The governmental unit had previously entered into 15-year leases with professional baseball team M and professional football team N. Both leases are limited to that portion of the stadium actually used for athletic purposes and do not include concessions. Both leases provide that governmental unit A shall (1) be responsible for maintenance of the stadium, (2) enter into agreements with concessionaires to provide appropriate services, and (3) have the use of the stadium when neither team is using it for athletic purposes. The bond indenture provides that payments to be received from M and N, revenues to be derived from concessions, and any other revenues to be derived from the operation of the stadium shall be security for the bonds.

(b) The bonds are not industrial development bonds since the stadium will be owned and operated by governmental unit A and no other person has rights with respect to the stadium such that a major portion of the economic benefit to be derived from the stadium will inure to such person.

Example (9). (a) The facts are the same as in example (8) except that governmental unit A enters into an agreement with corporation X under which corporation X, for a fixed reasonable fee, agrees to manage and operate the stadium in a manner that will provide revenue to pay the principal and interest on the bonds. Corporation X enters into lease arrangements with professional baseball team M and professional football team N that are identical to the leases described in example (8). Under the terms of the management agreement, any revenues from the operation of the stadium in excess of the fixed reasonable fee provided for in the agreement must be paid over to governmental unit A. The bond indenture provides that the stadium and the net operating revenues of the stadium shall be the security for the bonds.

(b) The bonds are not industrial development bonds since the stadium is owned by governmental unit A and corporation X is operating or managing the property on behalf of governmental unit A under a contract that does not permit a major portion of the economic benefit to be derived from the stadium to inure to corporation X.

Example (10). (a) Governmental unit A issues $5 million of bonds to purchase land and construct a public parking facility. The governmental unit had previously entered into an agreement with corporation X under which corporation X, for a reasonable fee, is to operate the parking facility in a manner that will provide the funds necessary to pay the principal and interest on the bonds. Any revenues from the operation of the parking facility in excess of the reasonable fee provided in the agreement must be paid to governmental unit A.

(b) The bonds are not industrial development bonds for the reasons set forth in example (9).

Example (11). (a) Governmental unit A issues $50 million of bonds to acquire land and construct an airport, including a terminal building, runways, and cargo areas. The governmental unit had previously entered into an agreement with airline corporations X and Y to lease portions of terminal building and cargo areas. The bond indenture provides that the rental payments from airline corporations X and Y, landing fees, and revenue derived from various airport concessions shall be the security for the bonds.

(b) The bonds are not industrial development bonds since the airport will be owned and operated by governmental unit A and no other person has rights with respect to the airport such that a substantial portion of the economic benefit to be derived from the airport will inure to such person.

Example (12). (a) The facts are the same as in example (11) except that 5 years after the airport bonds are issued governmental unit A enters into an agreement with airline corporation Z to lease a portion of the terminal building and cargo areas. In addition, the agreement provides that governmental unit A will provide airplane hangars for the use of airline Z on the airport property. The agreement provides (1) that governmental unit A will issue $5 million of bonds, (2) that the proceeds of the bond issue will be used to construct a hangar and other maintenance facilities in accordance with airline corporation Z's specifications, (3) that airline corporation Z will rent the facility for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the bonds, and (4)

that such payments by airline corporation Z and the facility itself shall be the security for the bonds.

(b) The bonds are not industrial development bonds since the hangars provided for airline corporation Z are functionally related to the airport property owned and operated by governmental unit A and the hangars are an integral part of the entire airport property.

Example (13). (a) The facts are the same as in example (12) except that instead of hangars governmental unit A agrees to construct a $20 million general office building and stewardess school for airline corporation Z.

(b) The bonds are industrial development bonds since the operation of a general office building and flight stewardess school is not functionally related to the airport property owned and operated by governmental unit A and the operation of such properties is not an integral part of the operation of the entire airport facility.

(c) *Applicability.* (1) Except as otherwise provided in subparagraph (2) of this paragraph, the provisions of this section are applicable to any indebtedness initially sold (within the meaning of subparagraph (3) of this paragraph) after March 15, 1968.

(2) The provisions of this section are not applicable to any indebtedness initially sold (within the meaning of subparagraph (3) of this paragraph) at any time prior to September 15, 1968, if, on or before March 15, 1968—

(i) The issuance of such indebtedness was approved by the governing body of the governmental unit issuing such indebtedness or by the voters of such governmental unit;

(ii) In connection with the issuance of such indebtedness or with the use of the proceeds to be derived from the sale of such indebtedness or property to be acquired with such proceeds, the governmental unit issuing such indebtedness has made a significant financial commitment;

(iii) Any person other than a governmental unit who will use (within the meaning of paragraph (b)(3) of this section) the proceeds to be derived from the sale of such indebtedness or the property to be acquired with such proceeds has expended, or has entered into a binding contract to expend, for purposes which are related to the use of such proceeds or such property, an amount equal to or in excess of 20 percent of such proceeds; or

(iv) In the case of an indebtedness issued in conjunction with a project where financial assistance will be provided by a Federal or State agency concerned with economic development, such agency has approved the project or an application for financial assistance is pending.

(3) For purposes of this paragraph, an indebtedness will be considered "initially sold" on the date on which a buyer or underwriter enters into a binding contract with the issuer for the purchase of such indebtedness at a fixed price. An agreement between a buyer or underwriter and an issuer will be considered to be a binding contract for the sale of an indebtedness although the obligations of one or both parties to such agreement are subject to one or more conditions which are beyond the control of such party or parties. Thus, for example, if a sale of bonds to be issued by a county at a fixed price must first be approved by the voters of the county, such agreement will be considered a binding contract, if it is otherwise unconditional, and the bonds will be considered initially sold on the date on which the agreement is executed.

[F.R. Doc. 68-3614; Filed, Mar. 22, 1968; 10:16 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Antidumping—ATS 643.3–v]

TITANIUM SPONGE FROM THE U.S.S.R.

Withholding of Appraisement Notice

MARCH 19, 1968.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect, from information presented to me, that the purchase price of titanium sponge from the U.S.S.R. is less, or likely to be less, than the constructed value as defined, respectively, in sections 203 and 206 of that Act, as amended (19 U.S.C. 162 and 165).

Customs officers are being directed to withhold appraisement of titanium sponge imported from the U.S.S.R. in accordance with the provisions of § 14.9(a) of the Customs Regulations (19 CFR 14.9(a)).

The information alleging that the merchandise under consideration was being sold at less than fair value within the meaning of the Antidumping Act was received in proper form on September 7, 1967. This information was the subject of an "Antidumping Proceeding Notice" which was published on page 16170 of the FEDERAL REGISTER of November 25, 1967, pursuant to § 14.6(d), Customs Regulations (19 CFR 14.6(d)).

This notice is published pursuant to § 14.6(e) of the Customs Regulations (19 CFR 14.6(e)).

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

[F.R. Doc. 68-3569; Filed, Mar. 22, 1968; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order 566, Amdt. 13]

CONTRACTING OFFICERS

Delegation of Authority Regarding Contracting and Related Matters

MARCH 18, 1968.

Bureau Order 566, as amended, is further amended under section 2, Designation of Contracting Officers and Contracting Officers' Authorized Representatives, by the revision of the position title for the listing designated (g), under (a) Contracting Officers, (1) Headquarters Office Officials; and of the listing designated (k), under (b) Contracting Officers' Authorized Representatives, (1) Headquarters Officials. As so revised, section 2(a)(1) (g) and (b)(1)(k) read as follows:

SEC. 2. *Designation of Contracting Officers and Contracting Officers' authorized representatives*—(a) *Contracting Officers.* * * *

(1) *Headquarters Office Officials.* * * *

(g) Chief, Construction Management Section, Field Technical Office, Branch of Plant Management, Littleton, Colorado.

* * * * *

(b) *Contracting Officers' Authorized Representatives.* * * *

(1) *Headquarters Office Officials.* * * *

(k) Chief, Construction Management Section 2.

* * * * *

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 68-3516; Filed, Mar. 22, 1968; 8:45 a.m.]

Geological Survey

CHIEF AND REGIONAL AND DISTRICT GEOLOGISTS, BRANCH OF MINERAL CLASSIFICATION

Delegation of Authority

MARCH 18, 1968.

The following material is a portion of the Geological Survey Manual and the numbering system is that of the Manual. Part 220 Special Redelegations Chapter 2, Conservation Division.

.2 *Definition of known geologic structures of producing oil and gas fields.* Subparagraph H, 220 DM 4.1 provides that "the Director, Geological Survey, is authorized to determine the boundaries of the known geologic structures of producing oil and gas fields, under the Act of February 25, 1920 (41 Stat. 437), as amended (30 U.S.C. 181, et seq.).

A. *Procedure.* Determinations of the boundaries of the known geologic structure of producing oil and gas fields are made in two manners:

(1) "Structures defined" are followed as soon after definition as practicable by the filing in the appropriate land office of maps or diagrams showing the structural boundaries, and by publication in the FEDERAL REGISTER of notices that such determinations have been made.

(2) "Structures undefined" are usually of a more temporary nature and maps or diagrams thereof are not filed and notices thereof not published; however, a memorandum of each such determination is filed in the appropriate land office and is available for public inspection.

B. *Delegation of authority.* The following are authorized to act for the Director in determining the boundaries of known geologic structures of producing oil and gas fields undefined, and may report such boundaries in memorandum reports to the appropriate land office, and to take further action to effectuate the act by also reporting to the appropriate land office the structural status of lands contained in an offer to lease oil and gas on Federal lands:

Chief, Branch of Mineral Classification.
Regional and District Geologists, Branch of Mineral Classification.

ARTHUR A. BAKER,
Acting Director.

[F.R. Doc. 68-3515; Filed, Mar. 22, 1968; 8:45 a.m.]

Office of the Secretary

CENTRAL AND FIELD ORGANIZATION

Regional Coordinators—Program Support Staff

The statement of the Organization of the Department of the Interior published at 32 F.R. 10674 and amended at 32 F.R. 13298 is further revised by the following change of address for the Federal Water Pollution Control Administration.

SEC. 4.30. *Federal Water Pollution Control Administration.*

REGIONAL OFFICE

Region and Headquarters

South Ceneral, 1402 Elm Street, Dallas, Tex. 75202.

GEORGE E. ROBINSON,
Deputy Assistant Secretary for Administration.

MARCH 14, 1968.

[F.R. Doc. 68-3523; Filed, Mar. 22, 1968; 8:46 a.m.]

LOWELL E. HUNT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of March 15, 1968.

Dated: February 23, 1968.

L. E. HUNT.

[F.R. Doc. 68-3524; Filed, Mar. 22, 1968; 8:46 a.m.]

DARIUS N. KEATON, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of March 14, 1968.

Dated: March 1, 1968.

D. N. KEATON, Jr.

[F.R. Doc. 68-3525; Filed, Mar. 22, 1968; 8:46 a.m.]

JAMES W. McWHINNEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of February 29, 1968.

Dated: February 29, 1968.

JAMES W. MCWHINNEY.

[F.R. Doc. 68-3526; Filed, Mar. 22, 1968; 8:46 a.m.]

STANLEY MILTON SWANSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of February 29, 1968.

Dated: February 29, 1968.

S. M. SWANSON.

[F.R. Doc. 68-3527; Filed, Mar. 22, 1968; 8:46 a.m.]

EMMETT A. VAUGHEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) Purchased: Gruman Aircraft Corp.
(3) None.
(4) None.

This statement is made as of March 15, 1968.

Dated: February 29, 1968.

E. A. VAUGHEY.

[F.R. Doc. 68-3528; Filed, Mar. 22, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

[P. & S. Docket No. 3977]

WASHINGTON LIVESTOCK AUCTION MARKET, INC.

Tariff Regarding Current Rates and Charges

Notice is hereby given that on February 21, 1968, the respondents filed a tariff No. 2 containing certain increases in the current rates and charges, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective March 6, 1968. The proposed tariff reads as follows:

ITEM NO. I—DEFINITIONS, SERVICES

SECTION 1. *Selling commission.* a. The selling commission consists of the charge made by the company for the selling services performed in respect to consigned livestock.

SEC. 2. *Yardage.* a. Includes suitable facilities and services for: Receiving and handling, safeguarding against loss, feeding, holding, weighing, delivery, and shipment of livestock.

SEC. 3. *Veterinary livestock inspection.* a. Includes inspection services of accredited veterinarians under State and Federal livestock sanitary regulations.

SEC. 4. *Veterinary facilities and services.* a. Includes facilities necessary in the handling of consigned or purchased livestock in carrying out testing, vaccination, inspection, dipping, spraying, and the like.

b. Includes veterinary services necessary, or required by state or federal livestock sanitary regulations, which will be performed by accredited veterinarians.

SEC. 5. *Feed.* a. All feeding at the market shall be done by the company or under its direction.

b. All feed charges are based on the quantity and type of feed fed.

ITEM NO. II—CHARGE CLASSIFICATION

SECTION 1. *Selling Commission.* a. For all classes of livestock:

(1) 3 percent on the first $1,000.
(2) 2 percent on the balance.

Exceptions:

(1) Minimum charge of $1 for any one consignor.
(2) For cattle sold for slaughter—$3 per head.

SEC. 2. *Yardage.* a. Cattle—$0.25 per head.
b. Hogs and Sheep—$0.05 per head.
c. Horses—$0.25 per head.

SEC. 3. *Veterinary inspection.* a. Cattle—$0.10 per head.
b. Hogs—$0.05 per head.
c. Sheep and Goats—$0.05 per head.
d. Horses and Mules—$0.10 per head.

SEC. 4. *Veterinary facilities and services.* a. All facilities necessary in the handling of consigned or purchased livestock in carrying out testing, vaccination, dipping, spraying and the like will be supplied by the company at uniform per head rates pursuant to company agreement with the accredited veterinarian performing such services.

b. Veterinary Services:
(1) Detusking male hogs—0.50 per head.
(2) Dipping sheep—0.30 per head.
(3) Brucellosis testing (Cows and Bulls)—2.50 per head with a charge of $1.25 on each additional head.

SEC. 5. *Feed.* a. Cattle—0.30 per head per day on hay only 0.50 per head per day on hay and grain.
b. Hogs—0.10 per head per day.
c. Sheep and Goats—0.10 per head per day.
d. Horses and Mules—0.50 per head per day.

SEC. 6. *Special or unusual services.* a. Special selling and stockyard services, such as involved in featured registered cattle and calf sales, not usually required in handling livestock for sale and other specified, will be charged for under special arrangement.

ITEM NO. III—RESALES AND NO SALES

SEC. 1. *Definitions.* a. Resale charges shall apply on all livestock resold without leaving the company livestock market premises.

b. No sale charges shall apply when the consignor declares his consignment no sale on price bid, bids in his consignment, or withdraws the same prior to actual sale.

SEC. 2. *Charge classification.* a. No charge shall apply in respect to all resales.

b. The following schedule of charges shall apply in respect to no sales:
(1) Cattle—$1.00 per head.
(2) Hogs, Sheep and Goats—$0.20 per head.
(3) Horses and Mules—$2.50 per head.

ITEM NO. IV—GENERAL PROVISIONS

SECTION 1. *Code of business standards.* a. The company subscribes to the Code of Business Standards of Certified Livestock Markets, as adopted by them through their business trade association.

SEC. 2. *Allocation of pens.* a. All pens, chutes, and alleys are the property of the company and may not be claimed by any patron for his exclusive use. The management will assign pens and may change such assignment without advance notice.

SEC. 3. *Title to livestock.* a. Title to all animals consigned for sale remains in the consignor until the time sold. Time of sale shall be at the time the highest bid is accepted, unless the sale is conditional or unless proof of title in consignor fails.

Notice is given hereby also that on March 5, 1968, the Packers and Stockyards Administration, U.S. Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondent's rates and charges. The contents of such documents are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereinafter referred to as the Act.

I

The respondent is now, and at all times mentioned herein was, registered with the Secretary of Agriculture as a market agency to buy and sell livestock on commission at the Washington Livestock Auction Market, Inc., stockyard, Washington, Iowa, which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the Act.

II

In accordance with the requirements of the Act, the respondent has heretofore filed and presently has in effect a schedule of rates and charges for its services at the aforementioned stockyard.

III

On February 21, 1968, the respondent filed a tariff No. 2, effective March 6, 1968, containing certain increases in the current rates and charges.

IV

Upon an analysis of the information available to the Packers and Stockyards Administration, U.S. Department of Agriculture, there is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V

It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondent's schedule of rates and charges as modified by the tariff filed on February 21, 1968, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI

It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondent and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondent of the modifications of the current schedule of rates and charges filed on February 21, 1968, to become effective on March 6, 1968, are hereby suspended and deferred until the expiration of 30 days beyond the time when such modified rates would otherwise go into effect.

It is further ordered, That notice to the respondent shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date, of which the respondent will receive adequate notice. At such hearing the respondent and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 20 days from the date of the publication of the contents hereof in the FEDERAL REGISTER.

It is further ordered, That a copy hereof be served upon the respondent.

Done at Washington, D.C., this 19th day of March 1968.

GLENN G. BIERMAN,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 68-3547; Filed, Mar. 22, 1968; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office for Civil Rights

POLICIES ON ELEMENTARY AND SECONDARY SCHOOL COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Office for Civil Rights adopts revised policies by which to evaluate the compliance status of elementary and secondary schools in the United States.

These policies are based on Title VI of the Civil Rights Act of 1964, the HEW Title VI Regulation, and decisions of the Federal Courts in cases arising under the Constitution of the United States. They are issued to guide school officials, HEW staff, and the public on the application of Title VI and the Regulation as affected by current judicial precedents, to discrimination in schools on the ground of race, color, or national origin. The controlling law is Title VI, the HEW Title VI Regulation, and the relevant decisions of the Federal Courts.

The material published here supersedes that which now appears in 45 CFR Part 181.

PETER LIBASSI,
Director,
Office for Civil Rights.

MARCH 18, 1968.

POLICIES ON ELEMENTARY AND SECONDARY SCHOOL COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

SUBPART A—APPLICABILITY OF POLICIES

MARCH 1968.

SECTION 1 *Purpose.* This statement is issued pursuant to §§ 80.6(a) and 80.12(b) of the HEW Title VI Regulation to set forth (1) the policies which the laws of the United States require elementary and secondary schools and school systems to follow in order to comply with Title VI of the Civil Rights Act of 1964 and the HEW Title VI Regulation, and (2) the procedures the Department follows in carrying out its responsibilities under Title VI and the Regulation. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 2 *Title VI.* Section 601 of the Civil Rights Act of 1964 provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (Sec. 601, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d.)

SEC. 3 *The HEW Title VI Regulation.* Section 602 of the Act directs Federal Departments which extend financial assistance to issue regulations to carry out the provisions of section 601. The HEW Title VI Regulation is published as Part 80, Title 45 of the Code of Federal Regulations.

The Regulation prohibits discriminatory action on the ground of race, color, or national origin by recipients of Federal financial assistance. Such discriminatory action includes:

(1) The denial of services;

(2) The provision of services in a different manner;

(3) Segregation in the provision of services; and

(4) Otherwise offering services and benefits in a manner which has the effect of defeating the purpose of the program with respect to particular individuals

on the ground of race, color, or national origin.

The Regulation further provides, among other things, for:

(1) The submission by each recipient of Federal assistance of a written assurance of compliance with Title VI;

(2) The submission by recipients of reports and other information necessary to enable the Department to carry out its responsibilities under Title VI;

(3) The conduct of periodic compliance reviews by HEW staff of the practices of recipients, and the resolution of noncompliance with Title VI through negotiation; and

(4) In the event of a recipient's refusal to correct noncompliance voluntarily, the initiation of administrative proceedings for the termination of Federal financial assistance, or the referral of the matter to the Department of Justice with a recommendation for appropriate proceedings under the laws of the United States. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 4 *Assurance of compliance.* The Department accepts three types of assurance of compliance with Title VI: (1) From school systems subject to a final order of a court of the United States for the desegregation of their schools, a written assurance that they will comply with the court's order; (2) from school systems eliminating a dual school structure under a voluntary desegregation plan, an HEW Form 441–B Assurance of Compliance; and (3) from all other schools and school systems, an HEW Form 441 Assurance of Compliance. When executing HEW Form 441, a school system agrees that it will take the measures necessary to comply with Title VI and the HEW Title VI Regulation. When executing HEW Form 441–B, a school system agrees that its voluntary desegregation plan will comply with the requirements of the HEW policy statements applicable to its type of desegregation plan. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 5 *Applicability of statement.* This statement amends and supersedes the "Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964" issued in March 1966 and amended in December 1966 and applies to all elementary and secondary schools and school systems which receive Federal financial assistance through the Department of Health, Education, and Welfare. Subpart B states compliance policies generally applicable to school systems throughout the United States. Subpart C states additional compliance policies applicable to school systems carrying out a voluntary desegregation plan. Subpart D states the Department's Title VI compliance procedures, and is applicable to each school or school system receiving Federal financial assistance. While these policies do not require the correction of racial imbalance resulting from private housing patterns, neither the policies nor Title VI bars a school system from reducing or eliminating racial imbalance in its schools. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SUBPART B—GENERAL COMPLIANCE POLICIES

SEC. 6 *General.* Under Title VI and the HEW Title VI Regulation, schools and school systems are responsible for assuring that the services, facilities, activities, and programs which they conduct or sponsor, or with which they are affiliated, are free of discrimination on the ground of race, color,

or national origin. This responsibility precludes a system from segregating students or from denying equal educational opportunities to students on the ground of race, color, or national origin. Each school system has the affirmative duty under law to take prompt and effective action to eliminate segregation or other discrimination based on race, color, or national origin, and to correct the effects of past discrimination. Correction of discrimination may require positive action based on the race, color, or national origin of students and professional staff. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 7 *School organization and operation.* School systems are responsible for assuring that there is no segregation of students on the ground of race, color, or national origin in the organization or operation of their schools. This responsibility for eliminating segregation extends to the manner in which a school system's educational programs and activities (including transportation, athletics, and extracurricular activities) are organized, school construction is planned, and students are assigned to schools; and covers such action as:

—Determining the curricula and activities available at particular schools.
—Setting the grade levels and number of students assigned to particular schools.
—Planning the location and size of new schools, and additions to or rehabilitation of existing schools.
—Establishing and maintaining school attendance zones, school feeder patterns, and school transportation patterns.
—Granting student transfers from school to school, or school system to school system.
—Assigning students to curricula, classes, and activities within a school. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 8 *Equal educational opportunity.* School systems are responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system. Providing equal educational opportunity does not, however, require school systems to offer an identical educational program for each student, or to fund each school, curriculum, course, or activity on the same basis, if the variations in programs and funding do not deny educational opportunities to students on the ground of race, color, or national origin. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 9 *Inferior educational facilities and services.* Where there are students of a particular race, color, or national origin concentrated in certain schools or classes, school systems are responsible for assuring that these students are not denied equal educational opportunities by practices which are less favorable for educational advancement than the practices at schools or classes attended primarily by students of any other race, color, or national origin. Examples of disparities between such schools and classes which may constitute a denial of equal educational opportunities include, but are not limited to:

—Comparative overcrowding of classes, facilities, and activities.
—Assignment of fewer or less qualified teachers and other professional staff.
—Provision of less adequate curricula and extracurricular activities or less adequate opportunities to take advantage of the available activities and services.
—Provision of less adequate student services (guidance and counseling, job placement, vocational training, medical services, remedial work).
—Assigning heavier teaching and other professional assignments to school staff.
—Maintenance of higher pupil-teacher ratios or lower per pupil expenditures.
—Provision of facilities (classrooms, libraries, laboratories, cafeterias, athletic and extracurricular facilities), instructional equipment and supplies, and text books in a comparatively insufficient quantity.
—Provision of buildings, facilities, instructional equipment and supplies, and text books which, comparatively, are poorly maintained, outdated, temporary or otherwise inadequate. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 10 *Professional staff.* School systems are responsible for recruiting, hiring, assigning, promoting, paying, demoting, and dismissing their professional staff without discrimination on the ground of race, color, or national origin. Where there has been discrimination in professional staffing policies or practices, school systems are responsible for taking whatever positive action may be necessary to correct the effects of the discrimination.

If, as a result of a program for complying with Title VI, there is to be a reduction in the total professional staff of a school system, or professional staff members are to receive assignments of lower status or pay, the staff members to be released or demoted must be selected from all the school system's professional staff members without regard to race, color, or national origin and on the basis of objective and reasonable standards. In addition, in such a situation, no staff vacancy may be filled through recruitment from outside the system unless school officials first determine that none of the displaced staff members is qualified to fill the vacancy.

Professional staff refers to staff members who are responsible for the education of students, and includes administrators, supervisors, and principals; teachers and other instructional staff; special services personnel; and such other staff members as student teachers and teacher aides. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SUBPART C—COMPLIANCE POLICIES APPLICABLE TO SCHOOL SYSTEMS ELIMINATING A DUAL STRUCTURE PURSUANT TO A VOLUNTARY DESEGREGATION PLAN

SEC. 11 *General.* A school system which has maintained a system of separate school facilities for students based on their race, color, or national origin has the affirmative duty under law to take prompt and effective action to eliminate such a dual school structure and bring about an integrated unitary school system. Compliance with the law requires integration of faculties, facilities, and activities, as well as students, so that there are no Negro or other minority group schools and no white schools—just schools. Where the steps taken by a school system under a voluntary desegregation plan to eliminate its dual structure have not proven effective, compliance with the law requires the school system to adopt and carry out an effective plan. Generally school systems should be able to complete the reorganization necessary for compliance with the law by the opening of the 1968–69 or, at the latest, 1969–70 school year. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 12 *Student assignments.* In selecting a method or combination of methods for assigning students to particular schools, each school system should consider which of the alternatives open to it will promote the most expeditious elimination of its dual structure. Examples of assignment methods commonly used to eliminate a dual structure are as follows:

(a) *Free Choice.* In many school systems a start toward the elimination of a dual structure has been made by requiring parents, or students, to choose the school the student will attend (free choice). Usually, however, additional steps, similar to those described below, are necessary to complete the desegregation of schools. If, under a free choice plan, vestiges of a dual school structure remain, the school system is responsible for taking whatever additional steps are necessary to complete the desegregation of its schools.

(b) *Geographic attendance zones.* A dual structure can be eliminated by assigning all students to schools on the basis of a single set of geographic attendance zones. School systems are responsible for assuring that to the extent it is administratively feasible, the zone boundaries do not perpetuate any vestiges of a dual school structure and that among the various attendance zone arrangements which are possible, it establishes the one which best promotes elimination of its dual school structure.

(c) *Reorganization of school structure.* In many cases, changing the grades taught at particular schools will eliminate a dual school structure. For example, a school system with two junior-senior high schools, one established originally for Negro students, and the other for white students, can consolidate the senior high grades at one school and the junior high grades at the other. With all secondary school students at the same grade level attending the same school, the dual school structure at the secondary school level is eliminated.

(d) *School closings.* When schools are closed, the students who attended the closed schools are assigned to another school in a manner which fosters the elimination of the school system's dual structure.

These examples do not exhaust all the methods or combination of methods which school systems may use to carry out the elimination of a dual school structure. Each school system should examine the needs of its own situation, and take whatever action is necessary to eliminate all vestiges of its dual structure. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 13 *School consolidation and construction.* School systems are responsible for closing any school originally established for students of a particular race, color, or national origin which, because of its physical characteristics, denies its students equal educational opportunities. To the extent consistent with their proper operation as a whole, school systems are also responsible for locating and designing new schools, expanding existing facilities, and consolidating their schools in a manner which brings about the elimination of their dual school structure. A school system may not delay consolidating the schools in its district in order to perpetuate a dual school structure. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 14 *New and special educational programs.* School systems are responsible for assuring that when new schools or new educational programs are opened, they open and operate without any vestiges of a dual structure. Similarly, school systems are responsible for conducting special educational programs, such as preschool, summer school, and adult and vocational education, on an integrated basis. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 15 *Transportation.* School systems are responsible for reorganizing their transportation systems to facilitate the elimination of the dual school structure. Race, color, or national origin may not be a factor

in assigning students to buses, nor may school systems continue to maintain overlapping, duplicative bus routes which segregate students. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 16 *Attendance outside system of residence.* School systems are responsible for assuring that no arrangement is made nor permission granted for students residing in one school system to attend school in another school system in any case where the result tends to maintain what is essentially a dual school structure in either system. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SEC. 17 *Conduct of choice procedures.* School systems still using free choice student assignments are responsible for obtaining an annual choice of school for each student who attends their schools. The manner of obtaining and processing school choices is set forth in the text of the sample Letter to Parents, Notice and Choice Form attached to this statement. School officers are responsible for using Choice Forms, Letters to Parents, and Notices which follow these samples, modifying them so as to make them a more effective means of eliminating their school system's dual structure. School systems may not, however, adopt changes which make these procedures less effective. School systems must publicize the Notice conspiculously in local newspapers shortly before the start of the choice period, and retain the completed choice forms for 2 years. A student who has not exercised his choice of school within a week after school opens should be assigned to the school nearest his home where space is available, under standards for determining available space which shall be applied uniformly throughout the system. (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

SUBPART D—THE HEW TITLE VI SCHOOL COMPLIANCE PROGRAM

SEC. 18 *Voluntary compliance.* The Department urges local school officials to take on their own initiative whatever action may be necessary to eliminate from their schools all discrimination based on race, color, or national origin. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 19 *Advice and assistance.* The office for Civil Rights at HEW is responsible for the Department's Title VI compliance program. Staff of the Office, who are located in Washington and at HEW Regional Offices, stand ready to provide local school officials with advice and assistance on compliance with Title VI. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 20 *Technical assistance.* Under Title IV of the Civil Rights Act of 1964, the Division of Equal Educational Opportunities at the U.S. Office of Education offers technical assistance to local school officials in the preparation and implementation of desegregation plans, and in coping with special educational problems occasioned by desegregation. The assistance is available from the Division's staff located in Washington and at HEW Regional Offices, and from the State education agencies and university desegregation centers which have desegregation assistance staffs supported by Title IV funds. (Sec. 402, Civil Rights Act of 1964; 78 Stat 247; 42 U.S.C. 2000c–2.)

SEC. 21 *Reports and reviews.* The Department requires periodic reports from school systems which receive Federal assistance concerning their compliance with Title VI and the Assurance of Compliance submitted by the school system. In addition, the Department may require individual school systems to furnish supplemental compliance information. These reports and other available information are reviewed for indications of policies or practices contrary to Title VI and the Assurance of Compliance. Where there are such indications, the school system is scheduled for review by Office for Civil Rights staff. The nature of the review depends on the nature of the problem, but normally will include a staff visit to the school system concerned. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 22 *Negotiations concerning noncompliance.* Where review of a school system indicates noncompliance with the Assurance of Compliance and Title VI, the Office for Civil Rights staff will make every reasonable effort to achieve compliance through negotiation.

The first formal step of such negotiation is a letter from the Office for Civil Rights to the school system identifying the particular areas of noncompliance, advising the system of its responsibility to prepare and submit to the Office for Civil Rights a plan for correcting the noncompliance promptly and effectively, and offering the school system assistance and guidance on the best manner to achieve compliance. If a school system submits a plan which is unsatisfactory in any respect, the Office for Civil Rights will inform the school system in detail and in writing of the areas in which the plan is not satisfactory.

If local officials so request, the Office for Civil Rights will at any stage of negotiation recommend in writing specific steps the school system may take to achieve compliance. When negotiation leads to agreement on the provisions of the plan necessary to achieve compliance, the Office for Civil Rights will, on request, state in writing the terms of the plan agreed upon, and advise that adoption and implementation of that plan is necessary for achieving compliance with Title VI. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 23 *Cooperation with State education agencies.* In conducting the HEW compliance program, the Office for Civil Rights seeks the cooperation of the State education agencies, and keeps each agency fully informed concerning the compliance of the school systems in its State. In particular, State education agencies are notified in advance of all compliance reviews of school systems in their State, and are invited to participate in each review and any subsequent negotiation. If a school system is not complying with Title VI, its State education agency is encouraged to make recommendations concerning the steps the school system should take to achieve compliance. (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

SEC. 24 *Enforcement action.* If a school system refuses to correct practices contrary to its Assurance of Compliance and Title VI, the Department, pursuant to section 602 of the Act, will either initiate administrative proceedings for the termination of the school system's Federal financial assistance, or refer the matter to the Department of Justice with a recommendation for appropriate legal action. The administrative proceedings include the right to a formal hearing before an independent Federal hearing examiner and a review of the examiner's decision by a Departmental reviewing authority. Termination orders are reported to the Congressional Committees with jurisdiction over the assistance affected before they become effective. Under section 603 of the Act, school systems have the right to judicial review of termination orders issued by the Department.

An order terminating a school system's Federal assistance may become effective during the course of a school year (September 1 to June 1) only if both of the following conditions have been met:

(1) The Department has, before March 1 of the preceding school year, mailed a letter to the school system informing it that information available to the Department indicates probable noncompliance with Title VI and that administrative proceedings, which could cause termination of the school system's Federal assistance during the course of the school year, are imminent if adequate corrective action is not taken.

(2) The Department has, not later than September 1 of the school year concerned, mailed to the school system, by certified or registered mail, a Notice of Opportunity for Hearing on the question of the school system's compliance with Title VI and eligibility for Federal financial assistance.

Neither of these conditions need be met, however, if the hearing examiner or the reviewing authority specifically determines that any one of the following issues was a substantial and material factor in the finding that the school system is not in compliance:

(1) Interference with or denial of the exercise of a choice of schools in a manner inconsistent with the school system's free choice desegregation plan;

(2) Denial to any student on the ground of race, color, or national origin of full participation in the programs, services, facilities, and activities of the school he attends;

(3) Failure to carry out one or more commitments which the school system has made to the Department in writing in response to a notification from the Department of the school system's failure to comply with Title VI; or

(4) Refusal to provide material compliance information to the Department or the provision of inaccurate information which has a substantial bearing on the compliance of the school system. (Secs. 602, 603, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1, 2000d–2.)

CHOICE FORM, LETTER AND NOTICE FOR USE WITH FREE CHOICE PLANS

(See section 17)

TEXT FOR LETTER TO PARENTS

If separate schools have been maintained for other than Negro and white students, adjust text accordingly.

(*School System Name and Office Address*)

(*Date Mailed*)

DEAR PARENT: Your school system's desegregation plan under the Civil Rights Act of 1964 is being continued for the coming school year. The purpose of the plan is to eliminate the dual structure of separate schools for children of different races.

The plan requires every student or his parent to choose the school the student will attend in the coming school year. It does not matter which school the student is attending this year, and it does not matter whether that school was formerly a Negro or a white school. You and your child may select any school you wish.

A choice of school is required for each student. A student cannot be enrolled at any school next school year unless a choice of schools is made. This year there will be a 30-day choice period, beginning _____, and ending _____.

A choice form listing the available schools and grades is enclosed. This form must be filled out and returned. You may mail it in the enclosed envelope, or deliver it by hand to any school or to the address above any time during the 30-day choice period. No one may require you to file your choice form before the end of the choice period. No preference will be given for choosing early during the choice period.

Your child's principal or teacher can explain to you your rights under the plan. In addition, the Notice enclosed with this letter gives many details about the desegreation plan.

No principal, teacher, or other school official is permitted to dissuade anyone from choosing a school where a desegregated education can be obtained. No one is permitted to penalize any student or other person because of a choice made. Once a choice is made, it can be changed only in case of serious hardship.

Your School Board and the school staff will do everything they can to see to it that the rights of all students are protected and that the desegregation plan is carried out successfully.

Sincerely yours,

Superintendent.

TEXT FOR CHOICE OF SCHOOL FORM

If separate schools have been maintained for other than Negro and white students, adjust text accordingly.

(School System Name and Office Address)

Choice of School Form

This form is provided for you to choose the school your child will attend for the coming school year. It does not matter which school the child has been attending, and it does not matter whether the school you choose was formerly a white or a Negro school. No student can be enrolled without making a choice of school. This form must either be brought to any school or mailed to the Superintendent's office at the address above by _____. If the student is 15 years old by the date of choice, or will be entering the ninth or a higher grade, either the student or his parent may make the choice.

1. Name of Child _____.
(Last) (First) (Middle)

2. Age _____.

3. School and grade currently or last attended _____. Grade _____.

4. School Chosen (Mark X beside school chosen).

(Here list by name, grades offered, and location each school available. For example:)

	Name of School	*Grades*	*Location*
☐	George Washington High School _____	8–12	Adams Street, Jefferson.
☐	James Madison Elementary School _____	1–7	Monroe Street, Jackson.

This form is signed by (mark proper box):

Parent _____ ☐
Other adult person acting as parent _____ ☐
Student _____ ☐

Signature _____
Address _____
Date _____

This block is to be filled in by the Superintendent's office, not by person signing.

Is student assigned to school chosen?
☐ Yes. ☐ No.
If not, explain _____.

TEXT FOR NOTICE TO BE PUBLISHED IN NEWSPAPERS, MAILED TO PARENTS, AND MADE AVAILABLE TO THE PUBLIC

(*School System Name and Office Address*)

Notice of School Desegregation Plan Under Title VI of the Civil Rights Act of 1964

1. *Desegregation plan in effect.* The _____ public school system is being desegregated under a plan adopted in accordance with Title VI of the Civil Rights Act of 1964. The purpose of the desegregation plan is to eliminate from the school system the racial segregation of students and all other forms of discrimination based on race, color, or national origin.

2. *Thirty-day spring choice period.* Each student or his parent, or other adult person acting as parent, is required to choose the school the student will attend next school year. The choice period will begin on _____ and close _____.

3. *Explanatory letters and school choice forms.* On the first day of the choice period, an explanatory letter and this notice will be sent by first-class mail to the parent, or other adult person acting as parent, of each student then in the schools who is expected to attend school the following school year. A school choice form will be sent with each letter, together with a return envelope addressed to the Superintendent. Additional copies of the letter, this notice and the choice form are freely available to the public at any school and at the Superintendent's office.

4. *Returning the choice forms.* Parents and students, at their option, may return the completed choice forms by hand to any school or by mail to the Superintendent's office, at any time during the 30-day choice period. No preference will be given for choosing early during the choice period. A choice is required for each student. No assignment to a school can be made unless a choice is made first. No parent or student need state on his choice form the reason for his choice.

Any letter or other written communication which identifies the student and the school he wishes to attend will be deemed just as valid as if submitted on the choice form supplied by the school system.

5. *Course and program information.* To guide students and parents in making a choice of school, listed below, by schools, are the courses and programs which are not given at every school in this school system.

(Here list, by schools, each course and program, such as special education, foreign languages, vocational education, science, commercial courses, and college preparatory courses offered at a particular school which is not offered at the same grade level at every other school in the system.)

6. *Signing the choice form.* A choice form may be signed by a parent or other adult person acting as parent. A student who has reached the age of 15 at the time of choice, or will next enter the ninth or any higher grade, may sign his own choice form. The student's choice shall be controlling unless a different choice is exercised by his parent before the end of the period during which the student exercises his choice.

7. *Processing of choices.* No choice will be denied for any reason other than overcrowding. In cases where granting all choices for any school would cause overcrowding, the students choosing the school who live closest to it will be assigned to that school. Whenever a choice is to be denied, overcrowding will be determined by a uniform standard applicable to all schools in the system.

8. *Notice of assignment, second choice.* The choices will not be made public by school officials. Instead a notice of the school assignment in writing will be sent promptly to all students and their parents. Should any student be denied his choice because of overcrowding, he will be promptly notified and given a choice among all other schools in the system where space is available.

9. *Students moving into the community.* A choice of school for any student who will be new to the school system may be made during the 30-day choice period or at any other time before he enrolls in school. An explanatory letter, this notice and the school choice form will be given out for each new student as soon as the school system knows about the student. At least 7 days will be allowed for the return of the choice form when a choice is made after the 30-day choice period. A choice must be made for each student. No assignment to any school can be made unless a choice is made first.

10. *Students entering first grade.* The parent, or other adult person acting as parent, of every child entering the first grade, or kindergarten [delete "or kindergarten" if not offered], is required to choose the school his child will attend. Choices will be made under the same free choice process used for students new to the school system in other grades, as provided in paragraph 9.

11. *Priority of late choices.* No choice made after the end of the 30-day choice period may be denied for any reason other than overcrowding. In the event of overcrowding, choices made during the 30-day choice period will have first priority. Overcrowding will be determined by the standard provided for in paragraph 7. Any parent or student whose first choice is denied because of overcrowding will be given a second choice in the manner provided for in paragraph 8.

12. *Tests, health records and other entrance requirements.* Any academic tests or other procedures used in assigning students to schools, grades, classrooms, sections, courses of study, or for any other purpose, will be applied uniformly to all students without regard to race, color, or national origin. No choice of school will be denied because of failure at the time of choice to provide any health record, birth certificate, or other document. The student will be tentatively assigned in accordance with the plan and the choice made, and given ample time to obtain any required document. Curriculum, credit, and promotion procedures will not be applied in such a way as to hamper freedom of choice of any student.

13. *Choices once made cannot be altered.* Once a choice has been submitted, it may not be changed, even though the choice period has not ended. The choice is binding for the entire school year to which it applies, except in the case of (1) compelling hardship, (2) change of residence to a place where another school is closer, (3) the availability of a school designed to fit the special needs of a physically handicapped student, (4) the availability at another school of a course of study required by the student, which is not available at the school chosen.

14. *All other aspects of schools desegregated.* All school-connected services, facilities, athletics, activities, and programs are open to all on a desegregated basis. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student. All transportation furnished by the school system will also operate on a desegregated basis. Faculties will be desegregated, and no staff member will lose his position because of race, color, or national origin. This includes any case where less staff is needed because schools are closed or enrollment is reduced.

15. *Attendance across school system lines.* No arrangement will be made, or permission granted, by this school system for any students living in the community it serves to attend school in another school system, or for any students living in another school system to attend school in this system, where this would tend to limit desegregation.

16. *Complaints.* Under the desegregation plan, school officials seek the support of all parts of the community for the desegregation of its schools. It is contrary to the plan for

school officials and teachers to dissuade persons from attending a school where a desegregated education can be obtained, or to frustrate the purposes of the plan with promises of favors or threats of penalties. In addition, it is contrary to Federal requirements for any other person to use intimidation or retaliation in order to interfere with the rights of students and parents under the plan. Any person who has a complaint about the operation of the desegregation plan should bring the matter to the attention of the responsible local or State officials. If they do not correct the matter promptly, any person familiar with the facts should report them without delay to the Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20202 (Telephone 202-962-0333). The name of any person submitting a complaint to the Office for Civil Rights will not be disclosed if he so requests.

[F.R. Doc. 68-3485; Filed, Mar. 22, 1968; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 68-33]

AMERICAN ZINC CO.

Notice of Qualification as U.S. Citizen

This is to give notice that pursuant to 19 CFR 3.21 (§ 3.21, Customs Regulations), issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), the American Zinc Co., 503 Blount Avenue, Knoxville, Tenn., incorporated under the laws of the State of Maine did on February 20, 1968, file with the Commandant, U.S. Coast Guard, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in Form 1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, U.S. Coast Guard, having found this oath to be in compliance with the law and regulations, on March 14, 1968, issued to American Zinc Co., a certificate of compliance on Form 1262, as provided in 19 CFR 3.21(i) (§ 3.21(i), Customs Regulations). The certificate and any authorization granted thereunder will expire 3 years from the date thereof unless there first occurs a change in the corporate status requiring a report under 19 CFR 3.21(h) (§ 3.21(h), Customs Regulations).

A certificate of compliance issued by the Commissioner of Customs on February 23, 1967, has been surrendered to the Commandant for cancellation.

Dated: March 14, 1968.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[F.R. Doc. 68-3539; Filed, Mar. 22, 1968; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

AIR CARGO, INC.

Notice of Application for Tariff-Filing Authority Pickup and Delivery Zone; Puerto Rico

MARCH 19, 1968.

In accordance with Part 222 (14 CFR Part 222) of the Board's economic regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 19725, from Air Cargo, Inc., on behalf of Airlift International, Inc., Caribbean Atlantic Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Pan American World Airways, Inc., and Trans-Caribbean Airways, Inc., for an order authorizing any and all points on the island of Puerto Rico to be filed as points within the terminal area of the San Juan International Airport.

Under the provisions of § 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application within fifteen (15) days after publication of this notice in the FEDERAL REGISTER. An executed original and 19 copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-3556; Filed, Mar. 22, 1968; 8:48 a.m.]

[Docket No. 18136]

COMPAGNIE NATIONALE AIR FRANCE

Notice of Hearing

Compagnie Nationale Air France enforcement proceeding:

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on April 16, 1968, at 10 a.m., e.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Richard A. Walsh.

Dated at Washington, D.C., March 19, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-3557; Filed, Mar. 22, 1968; 8:48 a.m.]

OZARK AIR LINES, INC.

Notice of Application for Amendment of Certificate of Public Convenience and Necessity

MARCH 19, 1968.

Notice is hereby given that the Civil Aeronautics Board on March 18, 1968, received an application, Docket 19724, from Ozark Air Lines, Inc., for amendment of its certificate of public convenience and necessity for route 107 to authorize it to engage in nonstop service between St. Louis, Mo., and Chicago, Ill. The applicant requests that its application be processed under the expelled procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-3558; Filed, Mar. 22, 1968; 8:48 a.m.]

[Docket No. 18577]

OZARK EXTENSION TO NEW YORK/WASHINGTON INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 10, 1968, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner E. Robert Seaver.

In order to facilitate the conduct of the conference interested parties are instructed to submit to the examiner and other parties on or before April 4, 1968, (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates.

Dated at Washington, D.C., March 19, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-3559; Filed, Mar. 22, 1968; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17884, 17885]

BERWICK BROADCASTING CORP. AND P.A.L. BROADCASTERS, INC.

Memorandum Opinion and Order Enlarging Issues; Correction

In re applications of Berwick Broadcasting Corp., Berwick, Pa., Docket No.

17884, File No. BPH–5812; P.A.L. Broadcasters, Inc., Pittston, Pa., Docket No. 17885, File No. BPH–5924; for construction permits.

In paragraph 3, line 17, Review Board Memorandum Opinion and Order 68R–103, released March 14, 1968, change the population figure to 111,443 persons.

Released: March 20, 1968.

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

[F.R. Doc. 68–3562; Filed, Mar. 22, 1968; 8:49 a.m.]

[Docket Nos. 17856, 17857; FCC 68M–472]

BLANCETT BROADCASTING CO. AND BRECKINRIDGE BROADCASTING CO.

Order Scheduling Prehearing Conference

In re applications of J. C. Blancett trading as Blancett Broadcasting Co., Hardinsburg, Ky., Docket No. 17856, File No. BPH–5815; Dr. O. C. Carter, Paul Fuqua and Dr. Robert D. Ingram doing business as Breckinridge Broadcasting Co., Hardinsburg, Ky., Docket No. 17857, File No. BPH–5927; for construction permits:

It is ordered, That a prehearing conference in the above-entitled proceeding shall be held in the offices of the Commission, Washington, D.C., on Tuesday, March 26, 1968, starting at 9 a.m.

Issued: March 19, 1968.

Released: March 20, 1968.

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

[F.R. Doc. 68–3563; Filed, Mar. 22, 1968; 8:49 a.m.]

[Docket Nos. 17648, 17649; FCC 68R–111]

EL CAMINO BROADCASTING CORP. AND SOUTH COAST BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In re applications of El Camino Broadcasting Corp., San Clemente, Calif., Docket No. 17648, File No. BPH–5566; Leon Hyzen, Charles W. Jobbins and Leon F. Westendorf, doing business as South Coast Broadcasting Co., San Clemente, Calif., Docket No. 17649, File No. BPH–5756; for construction permits.

1. This proceeding involves the application of El Camino Broadcasting Corp. (El Camino) and South Coast Broadcasting Co. (South Coast), each seeking authority to construct a new FM broadcast station at San Clemente, Calif. The applications were designated for hearing by Order (Mimeo No. 4796), released August 18, 1967. Now before the Review Board is a motion to enlarge issues filed by South Coast on February 8, 1968, in which site availability and character qualifications issues are requested.[1]

2. The subject motion was filed well after the expiration of the time limitations set forth in § 1.229 of the rules, and South Coast has not adequately demonstrated good cause for the delay. The Board has therefore examined the pleadings under the test set forth in The Edgefield-Saluda Radio Co. case,[2] to determine whether (a) serious public interest questions are raised, and (b) the likelihood of proving the respective allegations is so substantial as to outweigh the public interest benefits inherent in the orderly and fair administration of the Commission's business. Based on this examination, we find that, although the addition of a character qualifications issue is not warranted, an issue inquiring into site availability should be added.

3. Both of the requested issues are supported by an affidavit from Leon Hyzen, one of South Coast's principals, who is also an engineer. Hyzen states, among other things, that he contacted Roy Visbeek, the owner of El Camino's proposed site, and that Visbeek "indicated that at no time had he been approached by anyone" with a request for permission to locate an FM antenna on his land. In opposition, El Camino contends that Kirk Munroe, its vice president, "received concrete assurances from property owner Visbeek that a site would in all likelihood be available upon grant of a construction permit to El Camino." To support this contention, an affidavit from Munroe is submitted, in which he states that he "recontacted" Visbeek on February 1, 1968, and that Visbeek "indicated a willingness to discuss a lease arrangement" should El Camino receive a construction permit, and suggested talking with his attorney about the matter. South Coast, in reply, filed another affidavit from Hyzen and an affidavit from Charles W. Jobbins, who is also a principal of South Coast. They state that they recontacted Visbeek, who told them that he (Visbeek) could not recall whether he had talked to Munroe, that he had not given any assurance of site availability and that he would take no action without consulting his lawyer. Hyzen and Jobbins further state that they talked with Visbeek's lawyer who told them that he would, for various reasons, advise Visbeek against leasing any portion of the property and against signing an affidavit or statement concerning this matter.

4. It has long been held that an applicant need not have a binding agreement to obtain its proposed antenna site, and that it is sufficient if an applicant demonstrates that it has obtained "reasonable assurance" that its proposed site will be available. See e.g., Lawrence County Broadcasting Corp., FCC 67R–259, 10 RR 2d 471, and the cases cited therein. However, this is not to say that an applicant need not obtain any assurance that its site will in fact be available or that a mere possibility that the site will be available suffices. Thus, in Springfield Telecasting Co., FCC 64R–471, 3 RR 2d 727, the Review Board added a site availability issue where uncertainty existed as to the terms of a lease and the financial ability of the lessor to construct a building as proposed; and in WHDH, Inc., FCC 64R–55, 1 RR 2d 954, a similar issue was added on the basis of an allegation that an applicant's offer to purchase a proposed site had not been responded to by the site owner. Also see John N. Traxler and Alvera M. Traxler, FCC 65R–191, 5 RR 2d 738.

5. Although the subject petition is supported by hearsay affidavits, petitioner states that Visbeek, the owner of the land in question, was advised by his attorney not to execute an affidavit concerning this matter, and certain factual allegations are not disputed. Based on these allegations, it appears that Visbeek has indicated only that he would be willing to discuss a lease arrangement, but not until after a construction permit has been awarded; that he is relying on the advice of his attorney and referring all questions in this regard to his attarney; and that his attorney is against leasing the property. There is no indication that El Camino ever contacted Visbeek's attorney. The Review Board is of the opinion that these allegations raise a substantial question as to whether El Camino has secured "reasonable assurance" that its proposed site will be available. In our view, the mere fact that the property owner has indicated that he would discuss the possibility of a lease at some future date does not, absent some indication that he is favorably disposed toward making such an arrangement, provide any more assurance than an unrejected offer. Compare WHDH, Inc., supra. A site availability issue will therefore be specified. Finally, in view of the equivocal statements attributed to Visbeek by both parties as to whether he had ever been previously (prior to the filing of the subject motion) contacted by El Camino to determine the availability of the land, the Board believes that the request for a character qualifications issue does not meet the Edgefield-Saluda test.

6. *Accordingly, it is ordered,* That the motion to enlarge issues, filed on February 8, 1968, by South Coast Broadcasting Co., is granted to the extent indicated below, and denied in all other respects; and that the issues in this proceeding are enlarged by the addition of the following issue: To determine whether El Camino Broadcasting Corp. has reasonable assurance of being able to secure its proposed antenna site.

7. *It is further ordered,* That the burden of proceeding with the introduction of evidence and burden of proof under

[1] The following related pleadings are also before the Board: (a) Broadcast Bureau's comments, filed on Feb. 19, 1968; (b) opposition, filed on Feb. 19, 1968, by El Camino; and (c) reply filed on Feb. 29, 1968, by South Coast.

[2] 5 FCC 2d 148, 8 RR 2d 611.

the issue added herein will be on El Camino Broadcasting Corp.

Adopted: March 15, 1968.

Released: March 20, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-3564; Filed, Mar. 22, 1968; 8:49 a.m.]

[Docket No. 17538; FCC 68M-470]

LAUREL CABLEVISION CO.

Order Regarding Extension of Procedural Dates

In re petition by Laurel Cablevision Co., Somerset, Pa., Docket No. 17538, File No. CATV 100-24; for authority pursuant to § 74.1107 of the rules to operate CATV system in the Johnstown-Altoona, television market.

The Hearing Examiner having under consideration a "Petition for Extension of Procedural Dates" filed March 7, 1968, on behalf of Laurel Cablevision Co. requesting a brief extension of procedural dates as specified below;

It appearing, that counsel for the Broadcast Bureau, the only remaining party to this proceeding, has informally consented to the proposed extension of procedural dates, and that petitioner has stated "good cause" for the relief sought which is desired for further preparation on the question of CATV penetration in the the pertinent market:

Accordingly, it is ordered, That the "Petition for Extension of Procedural Dates" filed March 7, 1968, on behalf of Laurel Cablevision Co. is granted, and the affected procedural dates are extended as follows:

Procedure	From	To
Exchange of exhibits [1]	Mar. 15	Apr. 3, 1968
Notification of witnesses	Mar. 29	Apr. 12, 1968
Hearing	Apr. 8	Apr. 16, 1968

[1] The exchange date is extended nunc pro tunc.

Issued: March 19, 1968.

Released: March 20, 1968.

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

[F.R. Doc. 68-3565; Filed, Mar. 22, 1968; 8:49 a.m.]

[Docket Nos. 17889, 17890; FCC 68M-467]

LONG ISLAND VIDEO, INC., AND GRANIK BROADCASTING CO., INC.

Order Regarding Procedural Dates

In re applications of Long Island Video, Inc., Patchogue, N.Y., Docket No. 17889, File No. BPCT-3242; Granik Broadcasting Co., Inc., Patchogue, N.Y., Docket No. 17890, File No. BPCT-3422; for construction permit for new television broadcast station (Channel 67).

The Hearing Examiner has for consideration two Petitions for Extension of Time, filed on March 11, 1968, by Long Island Video, Inc., and on March 15, 1968, by Granik Broadcasting Co., Inc., all parties having consented to a grant of both petitions:

It is ordered, That the subject petitions are granted, and the procedural dates herein are extended, as follows:

March 21, 1968: Replies to pending petitions for leave to amend.

April 8, 1968: Exchange of exhibits.

April 12, 1968: Notification of witnesses.

April 16, 1968: Commencement of hearing at 10 a.m.

Issued: March 18, 1968.

Released: March 20, 1968.

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

[F.R. Doc. 68-3566; Filed, Mar. 22, 1968; 8:49 a.m.]

[Docket No. 17755; FCC 68M-468]

JOSEPH P. OLIVEIRA

Order Scheduling Hearing Conference

In the matter of Joseph P. Oliveira, Hollywood, Calif., Docket No. 17755; for amateur radio station and general class operator licenses.

The Hearing Examiner having under consideration (1) a request dated March 15, 1968, from counsel for Joseph P. Oliveira, Hollywood, Calif., requesting a change in the evidentiary hearing now scheduled for April 8, 1968, in Los Angeles, Calif.; (2) subsequent thereto, telephone conversations with said counsel for Mr. Oliveira; and (3) conversations with the counsel for the Commission's Safety and Special Radio Services Bureau;

It appearing, that counsel for Mr. Oliveira presently has a conflict with the commencement of the instant proceeding on April 8, 1968; and

It further appearing, that good cause exists why the hearing now scheduled for April 8, 1968, should be rescheduled:

Accordingly, it is ordered, That the hearing now scheduled in this proceeding for April 8, 1968, be and the same is hereby rescheduled for April 5, 1968, 10 o'clock a.m., in Room 1345, U.S. Courthouse Building, 312 North Spring Street, Los Angeles, Calif. 90012.

It is further ordered, That there will be a hearing conference in this matter on April 5, 1968, 9 o'clock a.m., in Room 1345, U.S. Courthouse Building, 312 North Spring Street, Los Angeles, Calif. 90012.

It is further ordered, That after the commencement of the evidentiary hearing on April 5, 1968, that if the Hearing Examiner deems it appropriate and feasible that the sessions of the evidentiary hearing will be held on April 6 and 9, 1968, 9 a.m., in Room 1345, U.S. Courthouse Building, 312 North Spring Street, Los Angeles, Calif. 90012.

Issued: March 19, 1968.

Released: March 20, 1968.

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

[F.R. Doc. 68-3567; Filed, Mar. 22, 1968; 8:49 a.m.]

[Docket Nos. 18075-18078; FCC 68-279]

SOUTHERN MINNESOTA SUPPLY CO. (KYSM) ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of F. B. Clements & Co., a copartnership composed of F. Braden Clements, Clara D. Clements, Durant F. Clements, Charles R. Butler, Individually and as Trustee, James F. Madden, Charles C. Butler and Clare M. Genz doing business as Southern Minnesota Supply Co. (KYSM), Mankato, Minn., Docket No. 18075, File No. BP-13346; Has: 1230 kc, 250 w, U, Class IV; Requests: 1190 kc, 500 w, 5 kw-LS, DA(CH), DA-N, U, Class II; Progress Valley Broadcasters, Inc. (KSMM), Shakopee, Minn., Docket No. 18076, File No. BP-16712; Has: 1530 kc, 500 w, Day, Class II; Requests: 1170 kc, 1 kw, Day Class II; Wisconsin Radio, Inc., River Falls, Wis., Docket No. 18077, File No. BP-17081; Requests: 1170 ks, 10 kw, 1 kw(CH), Day, Class II; Edwin B. Darby and Richard H. Darby, doing business as The Waseca-Owatonna Broadcasting Co., Waseca, Minn., Docket No. 18078, File No. BP-17088; Requests: 1170 kc, 1 kw, Day, Class II; for construction permits.

1. The Commission has before it the above-captioned applications which are mutually exclusive in that simultaneous operation of the stations as proposed would result in prohibitive overlap of contours as defined by § 73.37 of the Commission's rules.[2]

2. Wisconsin Radio, in order to meet its total financial requirements for the proposed station, relies in part on a stock purchase commitment from one of its subscribing stockholders, Mrs. Vena H. Rice. As evidence of her ability to pay the $22,563 balance owing on this commitment, Mrs. Rice has submitted a balance sheet which shows, among other things, the following current assets which she avers are available and will be used for this purpose: Cash, $6,000; 'note receivable payable on demand', $22,000; and 'stocks on exchange', $31,200. This stockholder is also committed to lend $20,000 to Wisconsin Radio to implement its proposal for an FM broadcast station.

[3] Review Board Member Slone absent.

[2] The Waseca proposal is mutually exclusive with the Shakopee and River Falls proposals because of 1.0 mv/m and 0.05 mv/m contour overlaps, and with the Mankato proposal because of 2.0 and 25 mv/m contour overlap.

In that application Mrs. Rice submitted a balance sheet showing essentially the same assets and was given credit for the value of her stocks listed on exchange as evidence of ability to meet that $20,000 loan commitment. Therefore, the stock item may not be considered to be fully available in conncetion with the AM application. The note receivable may not be considered an available liquid asset in the absence of the necessary substantiation showing how the note can produce liquid assets. Also, the stock item should be supported by a schedule identifying the stocks by name as well as the number of shares held and the exchange where listed, so that an independent and current determination can be made as to their market values. Because of the foregoing deficiencies, the applicant has failed to demonstrate its financial ability to construct and operate the proposed broadcast facilities for one year without revenues. Accordingly, a financial issue will be specified.

3. The engineering exhibit in support of the Wisconsin Radio application does not clearly indicate the business and factory areas of the City of River Falls, Wis. Therefore, it can not be determined whether the proposed 25 mv/m critical hour groundwave contour covers the area in question. The same is also true of the Waseca-Owatonna Broadcasting proposal. Accordingly, appropriate city coverage issues will be specified.

4. Examination of the Waseca-Owatonna proposal indicates that the applicant has failed to identify the representative groups and organizations contacted in its program survey as required by Section IV of FCC Form 301. Instead, the applicant merely states that the two partners were born and raised in the proposed service area; that they have numerous acquaintances in the area; and that "[t]hrough their discussions with local government officials, businessmen, farmers and leaders of civic and service clubs, they are familiar with the needs and aspirations of area residents." Thus, an issue will be included to determine what efforts were made to ascertain the programing needs and interests of the area to be served and the manner in which Waseca-Owatonna proposes to meet such needs and interests. Suburban Broadcasters, 30 FCC 1021, 20 RR 951.

5. A Suburban issue will also be required with respect to the Progress Valley and Southern Minnesota Supply Co. applications. In both instances, the applicants propose merely to continue the present program policies of their respective existing stations. In light of the fact that their proposed areas and populations served would more than double, substantial questions arise as to whether the applicants' present programing will meet the needs of the new areas to be served. In the absence of surveys, we cannot assume that substantial changes in programing are unnecessary.[2]

6. Progress Valley Broadcasters, Inc., is the licensee of Station KSMM, Shakopee, Minn. That town is situated in Scott County, approximately 25 miles southwest of St. Paul, Minn., and approximately 11 miles from Bloomington, Minn. Since KSMM's proposed 5 mv/m contour penetrates the geographic boundary of Bloomington, and since the populations of Shakopee and Bloomington are 5,201 and 50,498 respectively (1960 U.S. Census) a presumption arises that this applicant is realistically proposing to serve the larger city.[3] In an amendment filed on July 25, 1966, Progress submitted data and arguments in an attempt to rebut the aforementioned presumption. However, after careful examination of this material, the Commission finds that this applicant has failed to overcome the presumption. Therefore, a suburban community issue will be included as to this applicant.

7. At present, Southern Minnesota Supply Co's antenna height and location have not been approved by the Federal Aviation Administration. Accordingly, an air menace issue will be included.

8. From the information before the Commission it appears that except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the applications are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

9. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the Waseca-Owatonna and Wisconsin Radio proposals and the availability of other primary service to such areas and populations.

(2) To determine the areas and populations which may be expected to gain or lose primary service from the proposed operations of Stations KYSM and KSMM and the availability of other primary service to such areas and populations.

(3) To determine with respect to the Wisconsin Radio application:

(a) Whether Mrs. Vena H. Rice has sufficient liquid assets available to meet her stock purchase commitment.

(b) Whether, in light of the evidence adduced pursuant to (a) above, Wisconsin Radio is financially qualified.

(4) To determine whether the proposals of Wisconsin Radio, Inc., and Waseca-Owatonna would provide coverage of the respective cities sought to be served, as required by § 73.188(b)(1) of the Commission rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

(5) To determine the efforts made by Progress Valley, Southern Minnesota Supply Co., and Waseca-Owatonna to ascertain the community needs and interests of the area to be served and the means by which the applicants propose to meet those needs and interests.

(6) To determine whether the proposal of Progress Valley will realistically provide a local transmission facility for its specified station location or for another larger community, in light of all the relevant evidence, including, but not necessarily limited to, the showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicant to have separate and distinct programing needs;

(b) The extent to which the needs of the specified station location are being met by existing standard broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specific unsatisfied programing needs of its specified station location; and

(d) The extent to which the projected sources of the applicant's advertising revenues within its specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(7) To determine, in the event that it is concluded pursuant to the foregoing issue (a) that the proposal will not realistically provide a local transmission service for its specified station location, whether such proposal meets all of the technical provisions of the rules for standard broadcast stations assigned to the most populous community for which it is determined that the proposal will realistically provide a local transmission service, namely Bloomington, Minn.

(8) To determine whether there is a reasonable possibility that the tower height and location proposed by Southern Minnesota Supply Co. would constitute a menace to air navigation.

(9) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

(10) To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would better serve the public interest.

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[2] See In the Matter of Amendment of section IV (Statement of Program Service) of Broadcast Application Forms 301, 303, 314 and 315, 30 FR 10195, 5 RR 2d 1773. Also see Wometco Enterprises, Inc., v. FCC, 114 U.S. App. D.C. 261, 24 RR 2072; KTBS, Inc., FCC 63-359, 25 RR 301; Blackhawk Broadcasting Co., 4 FCC 2d 282, 8 RR 2d 238.

[3] Policy Statement on section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, adopted Dec. 22, 1965, 2 FCC 2d 190, 6 RR 2d 1901.

(11) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

10. *It is further ordered,* That, the Federal Aviation Administration is made a party to the proceeding.

11. *It is further ordered,* That, in the event of a grant of any of the applications, the construction permit shall contain the following condition: Any presunrise operation must conform with §§ 73.87 and 73.99 of the rules, as amended June 28, 1967 (32 F.R. 10437), supplementary proceedings (if any) involving Docket No. 14419, and/or the final resolution of matters at issue in Docket No. 17562.

12. *It is further ordered,* That, in the event of a grant of the application of Progress Valley Broadcasters, Inc., the construction permit shall contain the following condition: Submission by the permittee of data made in accordance with §§ 73.48 and 2.569 of the rules for type acceptance of the proposed transmitter.

13. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

14. *It is further ordered,* That the applicants herein shall, pursuant to § 1.594 of the Commission's rules and section 311(a)(2) of the Communications Act of 1934, as amended, give notice of the hearing either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: March 13, 1968.

Released: March 20, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-3561; Filed, Mar. 22, 1968; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 68-8]

CONTAINER MARINE LINES

Enlargement of Time for Filing Reply Briefs

Disposition of Container Marine Lines through Intermodal Container Freight Tariffs Nos. 1 and 2, FMC Nos. 1 and 2.

Good cause appearing, time for filing reply briefs in this proceeding is enlarged to and including March 26, 1968.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 68-3560; Filed, Mar. 22, 1968; 8:49 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MALAYSIA

Entry and Withdrawal From Warehouse for Consumption

MARCH 20, 1968.

On March 18, 1968, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, informed the Government of Malaysia that it was renewing for an additional 12-month period beginning March 21, 1968, and extending through March 20, 1969, the restraint on imports into the United States of cotton textile products in Categories 50 and 51, produced or manufactured in Malaysia. Pursuant to Annex B, paragraph 3, of the Long-Term Arrangement the levels of restraint for this 12-month period are 5 percent greater than the levels of restraint applicable to these categories for the preceding 12-month period.

There is published below a letter of March 19, 1968, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textile products in Categories 50 and 51, produced or manufactured in Malaysia which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning March 21, 1968, be limited to the designated levels.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

WASHINGTON, D.C. 20230
March 19, 1968.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(e) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective March 21, 1968, and for the 12-month period extending through March 20, 1969, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 50 and 51, produced or manufactured in Malaysia in excess of the following designated levels of restraint:

Category		12-month level of restraint
50	dozen	5,250
51	do	9,240

In carrying out this directive, entries of cotton textile products in Categories 50 and 51, produced or manufactured in Malaysia, which have been exported to the United States from Malaysia prior to March 21, 1968, shall, to the extent of any unfilled balances be charged against the levels of restraint established for such goods during the period March 21, 1967, through March 20, 1968. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

A detailed description of Categories 50 and 51 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton textiles and cotton textile products from Malaysia have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965-66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

C. R. SMITH,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 68-3551; Filed, Mar. 22, 1968; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RP68-1, RP66-4]

FLORIDA GAS TRANSMISSION CO.

Order Suspending Revised Tariff Sheets, Allowing Revised Tariff Sheets To Become Effective Subject to Refund Obligation and Accepting Revised Tariff Sheets for Filing

MARCH 19, 1968.

Florida Gas Transmission Company (Florida) tendered for filing on March 31, 1967, changes in its FPC Gas Tariff, Original Volumes Nos. 1 and 2[1] to be-

[4] Commissioner Wadsworth absent.

[1] Fourth Revised Sheet No. 1 and First Revised Sheet No. 4 of Original Volume No. 1 and First Revised Sheet No. 1, Second Revised Sheet Nos. 27 and 63 and Original Sheet Nos. 99-166, inclusive of Volume No. 2.

come effective on the initial date of operation of the facilities certificated in Opinion No. 516 and order issued March 1, 1967, in Docket No. CP65–393. The proposed filing was tendered pursuant to ordering paragraph (B) of that opinion and reflects rate changes in Florida Gas' Rate Schedules G, T–1, and T–2, which had been proposed by the company in connection with its request for certificate authority, and an initial rate under Rate Schedule T–3 for the new service authorized in the opinion.

In Opinion No. 516 we stated that we would initiate an investigation of Florida Gas' rates by separate order, and provided that if rate determinations had not been made before the effective date of the aforesaid changes in the G, T–1, and T–2 rates, we would suspend those rates for 1 day. By order issued July 19, 1967, we instituted an investigation of Florida Gas' rates in Docket No. RP68–1 and consolidated that proceeding with Docket No. RP66–4. Direct testimony and exhibits have been served in Docket No. RP68–1. Prehearing conference in these proceedings was held on February 20, 1968.[2] There remains the serving of rebuttal testimony and exhibits, cross-examination of both direct and rebuttal evidence, briefs, and reply briefs to the Presiding Examiner, the Examiner's initial decision, briefs, and reply briefs to the Commission on exceptions and the Commission's decision. Florida Gas has indicated that the facilities certificated in Docket No. CP65–393 are estimated to be completed and to go into operation about May 1, 1968. It does not appear likely that these proceedings will be concluded in the time remaining before May 1, 1968.

In view of the fact that rate determinations in Docket No. RP68–1 will not be completed prior to the date of initial deliveries under the newly certificated facilities, we shall suspend the proposed G, T–1, and T–2 rates and provide that those rates shall become effective 1 day immediately following the date of initial deliveries under the certificate issued in Docket No. CP65–393. The new T–3 rate will be accepted for filing to become effective on the date of commencement of operations of the CP65–393 facilities subject to modification, if any, from the date of Commission decision in these proceedings. Since Florida Gas is unable to designate with certainty the date on which the new facilities will go into operation, we shall require the company to certify that date to the Commission, when known, and to submit substitute tariff sheets for those tendered on March 31, 1967, showing the actual effective date of the rates proposed herein.

Florida Gas, with its filing, submitted a statement and undertaking to refund excessive charges, if any, collected under the proposed G, T–1, and T–2 rates. Florida Gas' undertaking does not meet the requirements of the agreement and undertaking which we normally provide in a rate suspension order. Therefore, as a condition of this order, we shall require Florida Gas to file the Agreement and Undertaking as set forth below.

The proposed changes in rates have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that First Revised Sheet No. 4 of Original Volume No. 1 and Second Revised Sheets Nos. 27 and 63 of Original Volume No. 2 of Florida Gas' FPC Gas Tariff be suspended and the use thereof deferred and that those revised tariff sheets be made effective, all as hereinafter provided, and that Florida Gas be required to file a motion and an undertaking as hereinafter ordered and conditioned.

(2) Fourth Revised Sheet No. 1 of Original Volume No. 1 and First Revised Sheet No. 1 and Original Tariff Sheets Nos. 99 through 166 of Original Volume No. 2 of Florida Gas' FPC Gas Tariff should be accepted for filing and made effective as hereinafter ordered.

The Commission orders:

(A) Florida Gas' proposed revised tariff sheets identified in paragraph (1) above are suspended and their use deferred until one day immediately following the date of initial deliveries under the certificate issued in Docket No. CP65–393: *Provided, however,* That within 20 days from the date of this order Florida Gas file a motion as required by section 4(e) of the Natural Gas Act and concurrently execute and file with the Secretary of the Commission the Agreement and Undertaking described in paragraph (D) below. Unless Florida Gas is advised to the contrary, within 15 days after the date of filing such Agreement and Undertaking, the Agreement and Undertaking shall be deemed to have been accepted.

(B) Florida Gas shall certify to the Commission the date of initial deliveries under the certificate granted in Docket No. CP65–393, when known, and shall file substitute tariff sheets showing the actual effective date of the rates proposed herein.

(C) Florida Gas shall refund at such times and in such amounts to persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of rates and charges found by the Commission in Docket No. RP68–1 not justified under Rate Schedules G, T–1, and T–2 together with interest thereon at the rate of 7 percent per annum from the date of payment to Florida Gas until refunded; shall bear all costs of any such refunding, shall keep accurate accounts in detail for each billing period of all amounts received under those rate schedules as of the effective date provided in paragraph (A) above, specifying by whom and in whose behalf such amounts were paid, and shall report (original and four copies) in writing and under oath, to the Commission monthly, for each billing period and for each customer, the billing determinants of sales to or transportation for such customers, and revenues resulting therefrom as computed under the tariff sheets in effect immediately prior to the effective date provided in paragraph (A) above, and under the tariff sheets hereinallowed to become effective, together with the differences in the revenues so computed.

(D) As a condition of this order, Florida Gas shall execute and file in triplicate with the Secretary of this Commission, its written agreement and undertaking to comply with the terms of paragraph (C) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the Board of Directors, and accompanied by a certificate showing service of copies thereof upon all customers under the tariff sheets involved as follows:

Agreement and Undertaking of Florida Gas Transmission Company to comply with the Terms and Conditions of paragraph (C) of Federal Power Commission's Order Issued ----------, in Docket No. -------.

In conformity with the requirements of the order issued ----------, in Docket No. ------ Florida Gas Transmission Co. hereby agrees and undertakes to comply with the terms and conditions of Paragraph (C) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its Board of Directors, a certified copy of which is appended hereto this ------ day of ----------, -------

Florida Gas Transmission Co.

By----------
President.

Attest:

Secretary.

(E) If Florida Gas shall, in conformity with the terms and conditions of its agreement and undertaking, make the refunds as may be required by order of the Commission in this proceeding, the undertaking shall be discharged, otherwise it shall remain in full force and effect.

(F) The revised tariff sheets identified in paragraph (2) above are accepted for filing to become effective on the date of initial deliveries under the certificate issued in Docket No. CP65–393.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–3508; Filed, Mar. 22, 1968; 8:45 a.m.]

[Docket No. RI68–470 etc.]

READING AND BATES OFFSHORE DRILLING CO. ET AL.

Order Accepting Contract Agreement, Providing for Hearings on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

MARCH 14, 1968.

In order accepting contract agreement, providing for hearings on and suspension of proposed changes in rates, and allowing rate changes to become effective

[2] The Presiding Examiner fixed Apr. 2, 1968 for commencement of cross-examination.

subject to refund, issued February 29, 1968, and published in the FEDERAL REGISTER March 8, 1968 (F.R. Doc. 68–2791), 33 F.R. 4347, Docket Nos. RI68–470 et al., Footnote "2" delete in its entirety and insert the following: "[2] Applicable to Bierig Unit added by Supplement No. 1 and Fyffe Unit No. 1 added by Supplement No. 3.".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–3509; Filed, Mar. 22, 1968; 8:45 a.m.]

[Docket No. RI68–502, etc.]

SINCLAIR OIL & GAS CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MARCH 15, 1968.

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

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

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

The Commission orders:

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

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

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

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before May 8, 1968.

By the Commission.

[SEAL] GORDAN M. GRANT,
Secretary.

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

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68–502	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102, Attn: Mr. P. T. Davis, Mgr., FPC Activity.	7	18	El Paso Natural Gas Co. (Spraberry Area, Glasscock, Midland, Reagan, and Upton Counties, Tex.) (RR. District Nos. 7–C and 8) (Permian Basin Area).	[2] $23,217 [7] 732	2–19–68	[3] 3–21–68	8–21–68	[5] [6] 15.47	[4] [6] 18.243 [4] [7] 18.213	
	do	8	24	El Paso Natural Gas Co. (Various Fields, Lea County, N. Mex.) (Permian Basin Area).	[8] 27,381 [10] 6,945 [11] 4,013 [16] 6,870	2–19–68	[3] 3–21–68	8–21–68	[5] [9] 14.45	[4] [8] 16.879 [4] [10] 16.422 [4] [11] 16.832 [4] [16] 16.376	
	do	286	12	El Paso Natural Gas Co. (Brown Bassett Field, Terrell County, Tex.) (RR. District No. 7–C) (Permian Basin Area).	102,356	2–19–68	[3] 3–21–68	8–21–68	[5] [12] 12.29	[4] [11] [12] 17.0	
RI68–503	Sinclair Oil & Gas Co. (Operator) et al.	265	15	El Paso Natural Gas Co. (Jalmat et al. Fields, Lea County, N. Mex.) (Permian Basin Area).	[8] 16,053 [10] 78,066 [16] 56,832 [16] 13,472 [17] 179	2–19–68	[3] 3–21–68	8–21–68	[5] [14] 14.0 [5] [17] 16.14	[4] [8] 16.879 [4] [10] 16.422 [4] [11] 16.832 [4] [16] 16.376 [4] [17] 16.879	

[2] Regular leases.
[3] The stated effective date is the first day after expiration of the statutory notice.
[4] Pressure base is 14.65 p.s.i.a.
[5] Rate established by quality statement previously accepted by the Commission.
[6] Effective rates are 18.243 cents (regular leases) and 18.213 cents (University leases), effective subject to refund in Docket No. RI65–75.
[7] University leases.
[8] Regular leases—high pressure gas.
[9] Effective rates are 16.879 cents (regular leases—high pressure gas); 16.422 cents (regular leases—low pressure gas); 16.832 cents (State leases—high pressure gas); and 16.376 cents (State leases—low pressure gas), effective subject to refund in Docket No. RI65–75.
[10] Regular leases—low pressure gas.
[11] Subject to maximum deduction of 4.5 cents per Mcf for removal of diluent content. Current charge by buyer is 3.053 cents for a net rate of 13.947 cents per Mcf.
[12] Effective rate is 17 cents effective subject to refund in Docket No. RI64–119. Rate subject to 4.5 cents maximum deduction for diluent removal.
[13] Unit increase based on net contract rate of 13.947 cents per Mcf (17 cents less 3.053 cents for removal of diluent content).
[14] Effective rates are 16.879 cents (regular leases—high pressure gas); 16.422 cents (regular leases—low pressure gas); 16.832 cents (State leases—high pressure gas) and 16.376 cents (State leases—low pressure gas), effective subject to refund in Docket No. RI65–75.
[15] State leases—high pressure gas.
[16] State leases—low pressure gas.
[17] New gas-well gas produced from acreage dedicated by Supplement No. 6; effective rate is 16.879 cents, effective subject to refund in Docket No. RI65–108 (regular lease—high pressure gas).

The proposed rate increases filed by Sinclair Oil & Gas Co. and Sinclair Oil & Gas Co. (Operator) et al., exceed the applicable area ceiling rates established in the related quality statements previously accepted by the Commission pursuant to Opinion No. 468, as amended, and should be suspended for 5 months from March 21, 1968, the date of expiration of the statutory notice.

[F.R. Doc. 68–3507; Filed, Mar 22, 1968; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 2–14886]

ALSCOPE CONSOLIDATED, LTD.

Order Suspending Trading

MARCH 19, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Alscope Consolidated, Ltd., Passaic, N.J., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March

20, 1968, through March 29, 1968, both dates inclusive.

By the Commission.

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

[F.R. Doc. 68-3531; Filed, Mar. 22, 1968; 8:47 a.m.]

[811-1429]

AMERICAN AND FOREIGN POWER CO., INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be Investment Company

MARCH 19, 1968.

Notice is hereby given that American and Foreign Power Co., Inc. ("Applicant"), c/o Electric Bond and Share Co., 2 Rector Street, New York, N.Y. 10006, a Maine corporation registered as a closed-end nondiversified management company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations, which are summarized below.

On September 23, 1966, Applicant registered as an investment company under the Act. On December 5, 1966, the respective Boards of Directors of Applicant and Electric Bond and Share Co. ("EBS"), a New York corporation and a registered closed-end nondiversified management investment company, approved and adopted an Agreement and Plan of Merger with EBS as the surviving corporation. On December 31, 1967, the merger of Applicant into EBS became effective and EBS succeeded to all the assets, rights, liabilities, and obligations of Applicant and the existence of Applicant as a separate corporation ceased.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given, That any interested person may, not later than April 9, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) any any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 68-3532; Filed, Mar. 22, 1968; 8:47 a.m.]

[812-2225]

BOSTON CAPITAL CORP.

Notice of Filing of Application for Order Exempting Transactions

MARCH 18, 1968.

Notice is hereby given that Boston Capital Corp. ("Boston Capital"), 535 Boylston Street, Boston, Mass. 02116, a Massachusetts corporation registered since July 28, 1960 as a closed-end, nondiversified, management type investment company under the Investment Company Act of 1940 ("Act") and licensed under the Small Business Investment Act of 1958, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for certain exemptions from sections 12(e), 17(a), and 17(d). All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Boston Capital was organized and commenced operations in 1960 when it first offered its shares to the public at $15 per share. During the past 7 years it has carried on a venture capital investment business. To date, Boston Capital has invested in more than 50 small business concerns.

In order to provide a framework within which it can retain and operate a portion of its assets under the Small Business Administration program and at the same time free the major portion of its assets to enable it to take advantage of investment opportunities not contemplated under that program, Boston Capital proposes, subject to stockholder approval, to cause its license as a small business investment company to be transferred to a wholly owned subsidiary, Boston Capital Small Business Investment Co. ("BOSBIC"), a Massachusetts corporation organized November 21, 1967. BOSBIC will have a paid in capital of $350,000, and will register as a closed-end, nondiversified investment company upon the issuance of an order of the Commission pursuant to this Notice. Boston Capital will then and from time to time in the future transfer certain assets to BOSBIC and thereafter will operate as a closed-end, nondiversified, management type investment company. Boston Capital further proposes to continue to engage, and to cause BOSBIC to engage, in the business of furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities. As an exhibit to the application, Boston Capital has attached a copy of a letter from the Small Business Administration ("SBA") which indicates that the SBA has no objection to the proposal.

Boston Capital agreed that the order of the Commission that may issue pursuant to this Notice may be conditioned upon the following:

1. Boston Capital will not make any investment in BOSBIC if the aggregate value of any existing investment plus the cost of any additional investment in BOSBIC would exceed 25 percent of the value of Boston Capital's total assets on a corporate basis.

2. Boston Capital will at all times continue to own and hold, beneficially and of record, all of the outstanding capital stock of BOSBIC.

3. Boston Capital will not cause or permit BOSBIC to change any of its fundamental investment policies, unless such action shall have been authorized by Boston Capital as the holder of all of the outstanding voting securities of BOSBIC after approval of such action by the vote of a majority (as defined in the Act) of Boston Capital's outstanding voting securities.

4. Boston Capital will not cause or permit BOSBIC to enter into, renew or perform any investment advisory or underwriting contracts or agreements, written or oral, as contemplated by section 15 of the Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with section 15 of the Act. Any vote of the stockholders of BOSBIC as required by section 15 of the Act will be deemed to require a vote of Boston Capital's stockholders. Any action of the directors of BOSBIC as required by section 15 of the Act, will be deemed to require a vote of the directors of Boston Capital, including a majority of those directors who are not parties to any such contract or agreement or affiliated persons of any such party.

5. Subject always to Boston Capital, individually, and Boston Capital and BOSBIC on a consolidated basis, having the asset coverage required by section 18(a) of the Act immediately after the issuance or sale of any senior securities, (a) Boston Capital may issue and sell to one or more banks, or to one or more insurance companies (but not to both a bank or banks and an insurance company or insurance companies) its unsecured promissory notes or other unsecured evidences of indebtedness in consideration of any loan, extension or

renewal thereof made by private arrangement, provided that such notes or evidences of indebtedness are not intended to be publicly distributed, and provided further that such notes or evidences of indebtedness are not convertible into, exchangable for, or accompanied by any options to acquire, any equity security, and (b) BOSBIC may borrow from the SBA on such basis as the SBA may from time to time lend to small business investment companies and as may be permitted under the Act and applicable rules thereunder, provided that Boston Capital will not guarantee any such borrowings by BOSBIC. Boston Capital will not itself, and will not cause or permit BOSBIC to, otherwise issue any class of senior security.

6. Boston Capital will file with the Commission and transmit to its stockholders reports prescribed and required by section 30 of the Act, including separate financial statements of BOSBIC. Boston Capital will also cause BOSBIC to file with the Commission copies of all reports which BOSBIC will be required to file with the SBA. Any independent public accountant who signs a financial statement filed by Boston Capital or BOSBIC with the Commission shall be selected and approved for Boston Capital in compliance wtih section 32(a) of the Act by a majority (as defined in the Act) of Boston Capital's outstanding voting securities.

7. All of the directors of BOSBIC will be directors of Boston Capital and all the officers of BOSBIC will hold corresponding positions with Boston Capital.

Section 12(d)(1), as here pertinent, prohibits the acquisition by a registered investment company of more than 5 percent of the total outstanding voting stock of any other investment company if the policy of such other investment company is the concentration of investments in a particular industry or group of industries, or more than 3 percent of such stock if the policy is not so to concentrate.

Section 12(e) of the Act provides, among other things, that notwithstanding the provisions of section 12(d)(1), a registered investment company may utilize up to 5 percent of the value of its assets to purchase or otherwise acquire any securities issued by another investment company engaged in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence and reorganizing companies or similar activities, provided that the securities issued by such other investment company consist solely of one class of common stock. An exemptive order from section 12(e) of the Act is necessary in order to enable Boston Capital to invest more than 5 percent of the value of its assets in BOSBIC which, as noted, will be a 100 percent owned subsidiary of Boston Capital and permit BOSBIC to issue two classes of securities, viz common stock to be held by Boston Capital and debt to be held by the SBA.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling to or purchasing from such registered company any securities or other property. Since BOSBIC is an affiliated person of Boston Capital, a registered investment company, section 17(a) makes it unlawful for any transfer of assets to be effected between the two companies, as presently contemplated, in the absence of an exemptive order of the Commission.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, among other things, that it shall be unlawful, with certain exceptions not applicable here, for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission. Boston Capital has requested an order exempting it from the provisions of section 17(d) of the Act to permit it to participate with BOSBIC in any possible joint transactions with third persons having no affiliation with Boston Capital, BOSBIC or with their affiliates.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Boston Capital submits that the requested exemptions are necessary to enable it to contemporaneously implement the Congressional intent recited in the Small Business Investment Act of 1958 and to engage in the furnishing of venture capital as contemplated by section 12(e) of the Act. The application, as amended, states that this proposed arrangement would be favorable to Boston Capital's stockholders.

Notice is further given that any interested person may, not later than April 5, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Boston Capital at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) / and / any / postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this Notice by registered mail to the Associate Administrator for Investment, Investment Division, Small Business Administration, Washington, D.C. 20416.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68–3533; Filed, Mar. 22, 1968; 8:47 a.m.]

[70–4606]

COLUMBIA GAS SYSTEM, INC.

Notice of Proposed Issue and Sale of Debentures at Competitive Bidding

MARCH 19, 1968.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), 120 East 41st Street, New York, N.Y. 10017, a registered holding company, has filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Columbia proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $50 million principal amount of debentures _____ percent series due May 1993. The interest rate of the debentures (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Columbia (which will be not less than 98½ percent nor more than 101½ percent of the principle amount thereof) will be determined by the competitive bidding. The debentures will be issued under an indenture between Columbia and Morgan Guaranty Trust Company of New York, trustee dated as of June 1, 1961, as heretofore supplemented by various indentures and as to be further supplemented by an 11th supplemental indenture to be dated May 1, 1968.

The net proceeds from the sale of the debentures will be used by Columbia to finance, in part, the cost of its subsidiary companies' 1968 construction program, estimated at $165 million and other corporate purposes.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees, commissions, and expenses

related to the proposed transactions is to be filed by amendment.

Notice is further given that any interested person may, not later than April 16, 1968, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 68-3534; Filed, Mar. 22, 1968; 8:47 a.m.]

[70-4609]

GULF POWER CO.

Notice of Proposed Issue and Sale of Short-Term Notes

MARCH 19, 1968.

Notice is hereby given that Gulf Power Co. ("Gulf"), 75 North Pace Boulevard, Pensacola, Fla. 32501, a public-utility subsidiary company of The Southern Co. ("Southern"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 thereof as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Gulf requests authorization to issue, from time to time prior to December 31, 1969, its unsecured promissory notes to banks in an aggregate principal amount not to exceed $13 million, including in such amount up to an aggregate of $8 million previously requested of which $6,986,000 was authorized by order of the Commission (Holding Company Act Release No. 15746). There are now $2,936,000 of such notes outstanding bearing an interest rate of 6 percent per annum. Each note proposed to be issued by Gulf will bear interest at the prime rate in effect at The Chase Manhattan Bank in New York on the date of issuance, except that the notes to Irving Trust Co., New York, will bear the prime rate in effect at the latter bank. All notes will mature not more than 9 months after the date of issue and will be prepayable, in whole or in part, without penalty or premium.

The initial $8,136,000 of Gulf's notes are to be issued to the following banks in the aggregate amounts as listed.

Names and Addresses of Banks	*Amount*
The Chase Manhattan Bank (National Association), New York, N.Y	$2,300,000
Irving Trust Co., New York, N.Y	2,900,000
Chemical Bank New York Trust Co., New York, N.Y	600,000
The Florida First National Bank at Pensacola, Pensacola, Fla	340,000
The First Bank & Trust Co. of Pensacola, Pensacola, Fla	1,000,000
The Citizens & Peoples National Bank of Pensacola, Fla., Pensacola, Fla	120,000
The West Pensacola Bank, Pensacola, Fla	85,000
The Commercial National Bank of Pensacola, Pensacola, Fla	65,000
Bank of Gulf Breeze, Gulf Breeze, Fla	22,500
Commercial Bank in Panama City, Panama City, Fla	100,000
The Bay National Bank & Trust Co., Panama City, Fla	150,000
Beach State Bank, Panama City Beach, Fla	43,000
Springfield Commercial Bank, Springfield, Fla	24,000
Bank of Fort Walton, Fort Walton Beach, Fla	40,000
First National Bank of Fort Walton Beach, Fort Walton Beach, Fla	45,000
Florida Bank at Chipley, Chipley, Fla	60,000
First National Bank in Milton, Milton, Fla	70,000
Santa Rosa State Bank, Milton, Fla	42,000
First National Bank of Crestview, Crestview, Fla	27,000
The First National Bank, De Funiak Springs, Fla	20,000
Cawthon State Bank, De Funiak Springs, Fla	20,000
The Bank of Bonifay, Bonifay, Fla	22,500
Escambia County Bank, Flomaton, Ala	40,000
Total	8,136,000

Gulf proposes initially to issue up to an aggregate amount of $8,136,000 of the notes. The remaining notes in aggregate face amount of $4,864,000 will be subject to further order of the Commission, and a list of lending banks for such amount will be supplied by amendment.

Gulf proposes to use the proceeds from the sale of the notes, together with its cash on hand and the proceeds from the sale of 20,000 shares of common stock to Southern and a contemplated sale during 1969 of long-term securities, of a type and in an amount not yet determined, to the public to finance its 1968 and 1969 construction program, estimated at $43,814,000, to pay its short-term bank loans incurred for such purpose and for other corporate needs. The proceeds from the sale of such long-term securities will be applied to pay in full or to reduce the amount of notes at the time outstanding hereunder.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $1,000, including legal fees of $500.

It is stated that the Florida Public Service Commission has jurisdiction over the proposed issuance of these notes; it is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 8, 1968, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service thereof (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 68-3535; Filed, Mar. 22, 1968; 8:47 a.m.]

[812-2273]

LINCOLN NATIONAL LIFE INSURANCE CO. AND LINCOLN NATIONAL VARIABLE ANNUITY FUND B

Notice of Application for Exemption

MARCH 19, 1968.

Notice is hereby given that The Lincoln National Life Insurance Co. ("The Lincoln") and Lincoln National Variable Annuity Fund B ("Fund") (herein collectively called "Applicants"), 1301 South Harrison Street, Fort Wayne, Ind. 46802, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940, 15 U.S.C. sec. 80a-1, et seq. ("Act"), for an order exempting

Applicants from the provisions of sections 17(f), 22(d), 22(e), 27(a)(4), 27(c)(1), and 27(c)(2) of the Act, and rule 17f-2 thereunder. The Lincoln established the Fund pursuant to Indiana law on December 1, 1966, as a segregated investment account to offer group or individual variable annuity contracts not qualifying for Federal tax benefits under section 401 or 403 of the Internal Revenue Code of 1954, as amended. Fund is an open-end diversified management company registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations which are summarized below.

Section 17(f) provides, in pertinent part, that a registered management investment company may maintain its securities and other investments in its own custody in accordance with such rules, regulations, and orders as may be adopted by the Commission in the interest of investors. Rule 17f-2 requires, in pertinent part, that such assets be placed in a bank subject to the other requirements of the rule, one of which limits the persons who shall have access only to certain specified individuals. Applicants request an exemption to permit access to the securities of the Fund which will be held pursuant to a safekeeping agreement with Bankers Trust Co. by duly authorized representatives of the Department of Insurance of the State of Indiana ("Department"). Applicants represent that under Indiana law, securities in amounts determined with regard to reserve liabilities should be deposited with the Department and that this security depository requirement will be satisfied by depositing such securities pursuant to a written agreement between The Lincoln and Bankers Trust Co. The agreement has been approved by the Insurance Commissioner of Indiana and limits withdrawals to those sanctioned and approved by the Department.

Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus. Applicants state that there is no distinction made in the proposed group contracts between the amount deducted for sales expense and that deducted for administrative expenses. Applicants represent that this is due to the impossibility of determining in advance the proportion of the total deduction which will be incurred for sales expenses as opposed to administrative expenses since the proportion will vary from case to case.

Applicants further request exemption from the provisions of section 22(d) to permit an experience rating provision in the proposed group contracts. The combined sales and administrative expense applicable to each contract will be determined annually. If the actual expenses exceed the amount previously deducted for such expenses, no additional deduction will be made. If the actual expenses are less than the amounts deducted, The Lincoln, in its discretion, may allocate all, a portion, or none of the excess as an experience rating credit to the group contract participants.

Sections 22(e) and 27(c)(1) provide, in pertinent part, that (1) a registered investment company may not suspend the right of redemption or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than 7 days after the tender of such security for redemption, and (2) a registered investment company issuing periodic payment plan certificates may not sell such certificates unless such certificates are redeemable securities.

Applicants represent that prior to their maturity dates the contracts are redeemable and satisfy the redemption provisions of the Act. However, on their respective maturity dates, the then value of the contracts is determined and applied to provide for lifetime annuity payments of variable amounts. Applicants state that because the amount of annuity payments under the variable option are calculated actuarially, based upon the life expectancies of the purchasers of the contracts, if a purchaser were permitted to redeem his contract after maturity date, it would upset the actuarial computations made with respect to the remaining purchasers. Applicants request exemption from sections 22(e) and 27(c)(1) to the extent that once a purchaser begins to receive annuity payments he cannot redeem the value credited to his contract. Such prohibitions shall apply only after annuity payments to the purchaser commence.

Section 27(a)(4) as here pertinent prohibits the sale of any periodic payment plan certificate issued by a registered investment company if the first payment on such certificate is less than $20, or any subsequent payment is less than $10. Applicants represent that the contracts provide for the deduction of a fixed percentage of each payment as a sales charge with no "front-end load."

Applicants also represent that under individual contracts providing for periodic stipulated payments, the amount of any stipulated payment computed on an annualized basis is limited to 200 percent of the initial payment and should the contract owner increase monthly payments in excess of the 200 percent maximum, and the annuity rates or expense guarantees then in effect were different from those in effect when the first contract was issued, a new contract might be issued with respect to the excess. Although this excess may be less than the $20 required by the section for an initial payment, the total contribution would exceed the required minimum.

Applicants further state that the requested exemption is necessary for group contracts in order to minimize the administrative and accounting burdens involved for the contract owner in making periodic contributions with respect to the group contract participants. Therefore, Applicants request an exemption from the initial minimum payment provision of section 27(a)(4) with the representation that Applicants will not accept payment of less than $10 with respect to any contracts.

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust and places certain restrictions on charges which may be made against the trust income and corpus, and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign.

Applicants state that The Lincoln functions as a regulated insurance company and is subject to extensive and detailed supervision and inspection by the Insurance Commissioner of Indiana in all of its dealings with the contract purchasers. The Lincoln states that such control provides ample assurance against misfeasance and adequately protects the interest of the contract purchasers. Accordingly, Applicants state that such authority and jurisdiction affords the essential protection which the trusteeship or custodianship under section 26(a)(2) is designed to provide. Moreover, Indiana law provides that the Fund shall not be liable for charges arising out of any other business of The Lincoln which has no specific relation to or dependence upon the Fund; and that the contractual obligations of The Lincoln to the contract holders or to participants under group contracts cannot be abandoned until such obligations have been discharged. Applicants affirmed this obligation in connection with the registration statement under the Securities Act of 1933. Since such supervision, inspection, and undertakings will effectively prevent orphanage of the Fund by The Lincoln which the trusteeship under section 27(c)(2) is designed to protect, Applicants request an exemption from the requirement of section 27(c)(2) for literal compliance with sections 26(a)(2) and (3). Applicants have consented to the requested exemption being subject to the condition that the charges under the contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, and that the Commission shall reserve jurisdiction for such purpose.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules

promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is hereby given that any interested person may, not later than April 8, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68–3536; Filed, Mar. 22, 1968; 8:47 a.m.]

[File No. 2–24176]

ZIMOCO PETROLEUM CORP.

Order Suspending Trading

MARCH 19, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zimoco Petroleum Corp., New York, N.Y., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 20, 1968, through March 29, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68–3537; Filed, Mar. 22, 1968; 8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as indicated.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Aalfs Manufacturing Co., LeMars, Iowa; 2–13–68 to 2–12–69; 10 learners (men's pants).

Albain Shirt Co., Kinston, N.C.; 2–18–68 to 2–17–69 (men's and boys' dress shirts).

Bartel Sportswear, Inc., Richmond, Ind.; 2–8–68 to 2–7–69; 10 learners (boys' trousers).

Benjamin & Johnes, Inc., Dunn, N.C.; 2–8–68 to 2–7–69; 10 learners (foundation garments).

Michael Berkowitz Co., Inc., Waynesburg, Pa.; 2–16–68 to 2–15–69 (men's and ladies' pajamas).

Michael Berkowitz Co., Inc., Frostburg, Md.; 2–24–68 to 2–23–69 (men's pajamas).

Berlin Manufacturing Co., Inc., Berlin, Md.; 3–4–68 to 3–3–69; 10 learners (work pants and work shirts).

Blue Bell, Inc., Hanceville, Ala.; 3–3–68 to 3–2–69 (men's, boys' and ladies' dungarees).

Burlington Manufacturing Co., Miami, Okla.; 3–4–68 to 3–3–69 (men's dungarees).

Carwood Manufacturing Co., Baldwin, Ga.; 2–19–68 to 2–18–69 (men's work pants).

Carwood Manufacturing Co., Cornelia, Ga.; 2–19–68 to 2–18–69 (men's work shirts and sport shirts).

Carwood Manufacturing Co., Lavonia, Ga.; 2–19–68 to 2–18–69 (men's and boys' pants).

Carwood Manufacturing Co., Lavonia, Ga.; 2–19–68 to 2–18–69 (men's and boys' pants).

Carwood Manufacturing Co., Plant No. 1, Monroe, Ga.; 2–19–68 to 2–18–69 (men's outerwear jackets).

Carwood Manufacturing Co., Plant No. 2, Monroe, Ga.; 2–19–68 to 2–18–69 (men's and boys' work pants).

Checotah Manufacturing Co., Checotah, Okla.; 2–12–68 to 2–11–69 (women's and children's peddlepushers).

Edmonton Manufacturing Co., Greensburg, Ky.; 2–1–68 to 1–31–69; 10 learners (work pants and shirts).

Elder Manufacturing Co., McLeansboro, Ill.; 2–7–68 to 2–6–69 (men's and boys' dress shirts).

Fawn Grove Manufacturing Co., Inc., Fawn Grove, Pa.; 2–28–68 to 2–27–69 (men's and boys' trousers and work clothing).

Fawn Grove Manufacturing Co., Inc., Rising Sun, Md.; 2–28–68 to 2–27–69; 10 learners (work clothing, dungarees, overalls, and work shirts).

Flintrock Shirt Co., Inc., Marshall, Ark.; 3–6–68 to 3–5–69 (men's dress and sport shirts).

Glenn Slacks, Inc., Bruce, Miss.; 2–25–68 to 2–24–69 (men's dress slacks).

The H. W. Gossard Co., Sullivan, Ind.; 3–2–68 to 3–1–69 (women's foundation garments).

Imperial Reading Corp., Christiansburg, Va.; 2–21–68 to 2–20–69 (men's work pants and boys' dungarees).

F. Jacobson & Sons, Inc., York, Pa.; 2–3–68 to 2–2–69 (men's sport shirts).

F. Jacobson & Sons, Inc., Seymour, Ind.; 3–6–68 to 3–5–69 (men's dress shirts).

Jaymar-Ruby, Inc., Michigan City, Ind.; 2–13–68 to 2–12–69 (men's slacks).

Jonbil Manufacturing Co., Inc., Chase City, Va.; 2–14–68 to 2–13–69 (women's pants, shirts, and allied garments).

Kellwood Co., Sunbright, Tenn.; 3–1–68 to 2–28–69 (men's sport shirts).

Kentucky Pants Co., Glasgow, Ky.; 3–7–68 to 3–6–69 (work and casual pants).

W. Koury Co., Inc., Sanford, N.C.; 3–1–68 to 2–28–69 (men's and boys' trousers, work shirts, and sport shirts).

Lawton Manufacturing Co., Lawton, Okla.; 2–14–68 to 2–13–69 (men's and boys' trousers).

M & G Sportswear, Inc., Fall River, Mass.; 2–12–68 to 2–11–69 (children's sportswear and outerwear).

The Manhattan Shirt Co., Jesup, Ga.; 2–1–68 to 1–31–69 (men's sport shirts).

Mid-South Manufacturing Co., Richton, Miss.; 2–9–68 to 2–8–69 (men's work pants).

Monleigh Garment Co., Inc., Mocksville, N.C.; 2–13–68 to 2–12–69 (men's sport shirts).

Morgan Apparel, Inc., Wartburg, Tenn.; 3–1–68 to 2–28–69; 10 learners (men's work shirts).

Oakley Fashions, Inc., Jackson, Tenn.; 2–1–68 to 1–31–69 (women's and misses' dresses).

Oberman Manufacturing Co., Arkadelphia, Ark.; 2–23–68 to 2–22–69 (men's and boys' pants)

R.C.M. Sportswear, New Milford, Pa.; 3–4–68 to 3–3–69; 6 learners (ladies' dresses).

Reidbord Bros. Co., Apollo, Pa.; 3–4–68 to 3–3–69 (men's and boys' trousers).

Reidbord Bros. Co., Buckhannon, W. Va.; 3–7–68 to 3–6–69 (men's and boys' dress slacks).

Reidbord Bros. Co. No. 2, Elkins, W. Va.; 2–26–68 to 2–25–69 (men's and boys' trousers).

Rowland Manufacturing Co., Rowland, N.C.; 2–11–68 to 2–10–69 (men's and boys' sport shirts).

Salemburg Manufacturing Co., Salemburg, N.C.; 2–9–68 to 2–8–69 (women's cotton dresses).

Sanford Manufacturing Co., Wilkes-Barre, Pa.; 2–14–68 to 2–13–69 (ladies' slacks).

School-Timer Frocks, Inc., Hanahan, S.C.; 3–4–68 to 3–3–69 (children's dresses).

Sharon Manufacturing Co., Sharon, Tenn; 2–1–68 to 1–31–69 (children's pajamas).

Henry I. Siegel Co., Inc., Bruceton, Tenn.; 2–20–68 to 2–19–69 (men's and boys' pants).

Society Lingerie Co., Inc., Michigan City, Ind.; 2–16–68 to 2–15–69; 10 learners (women's pajamas).

Solomon Bros. Co., Camden, Ala.; 2–24–68 to 2–23–69 (men's sport shirts).

Solomon Bros. Co., Thomasville, Ala.; 2–24–68 to 2–23–69 (men's sport shirts).

Somerville Manufacturing Co., Inc., Somerville, Tenn.; 3–10–68 to 3–9–69 (men's pants).

Soperton Manufacturing Co., Soperton, Ga.; 2–3–68 to 2–2–69 (men's sport shirts).

Stein-Way Clothing Co., Inc., Johnson City, Tenn.; 2–8–68 to 2–7–69 (men's and boys' trousers).

Tritex Sportswear, Inc., Altoona, Pa.; 2–21–68 to 2–20–69 (men's and children's outerwear jackets).

Tru-fit Trousers, Inc., Traverse City, Mich.; 2–14–68 to 2–13–69; 10 learners (men's trousers and outerwear jackets).

Twin City Manufacturing Co., Twin City, Ga.; 3–7–68 to 3–6–69 (men's dress and sport shirts).

The Van Heusen Co., Augusta, Ark.; 2–28–68 to 2–27–69 (men's dress shirts).

Van Raalte Co., Inc., Franklin, N.C.; 2–8–68 to 2–7–69 (ladies' lingerie).

The Van Wert Manufacturing Co., Van Wert, Ohio; 2–16–68 to 2–15–69; 5 learners (men's, boys', and ladies' outerwear jackets).

J. M. Wood Manufacturing Co., Temple, Tex.; 2–17–68 to 2–16–69 (pants).

Woolfolk Manufacturing Corp., Louisa, Va.; 2–17–68 to 2–16–69 (men's and boys' pants).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Angelica Uniform Co., Mountain View, Mo.; 2–3–68 to 8–2–69; 60 learners (men's outerwear coats).

Emporia Garment Co., Inc., Emporia, Va.; 2–5–68 to 8–4–68; 10 learners (children's dresses).

Formflex of Arizona, Inc., Phoenix, Ariz.; 2–3–68 to 8–2–68; 10 learners (women's girdles).

F. Jacobson & Sons, Inc., Middlesboro, Ky.; 2–15–68 to 8–14–68; 10 learners (men's dress shirts).

Key Manufacturing Co., Inc., Tompkinsville, Ky.; 2–26–68 to 8–25–68; 20 learners (men's and boys' dungarees).

Lawton Manufacturing Co., Lawton, Okla.; 2–14–68 to 8–13–68; 120 learners (men's and boys' trousers).

Morgan Apparel, Inc., Wartburg, Tenn.; 3–1–68 to 8–31–68; 40 learners (men's work shirts).

Henry I. Siegel Co., Inc., Dickson, Tenn.; 2–26–68 to 8–25–68; 30 learners (men's, boys', ladies', and girls' pants).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Banner Elk Glove Co., Inc., Banner Elk, N.C.; 2–14–68 to 2–13–69; 10 learners for normal labor turnover purposes (leather gloves).

Banner Elk Glove Co., Inc., Banner Elk, N.C.; 2–23–68 to 8–22–68; 10 learners for plant expansion purposes (leather gloves).

Good Luck Glove Co., Metropolis, Ill.; 2–13–68 to 2–12–69; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Good Luck Glove Co., Metropolis, Ill.; 3–10–68 to 3–9–69; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Marso & Rodenborn Manufacturing Co., Fort Dodge, Iowa; 2–26–68 to 2–25–69; 10 learners for normal labor turnover purposes (work gloves).

Mid West Glove Corp., Chillicothe, Mo.; 2–25–68 to 2–24–69; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Belmont Knitting Co., Belmont, N.C.; 1–30–68 to 1–29–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

James Knitting Co., Inc., Greenville, Tenn.; 2–20–68 to 2–19–69; 5 learners for normal labor turnover purposes (seamless).

Portage Hosiery Co., Portage, Wis.; 2–20–68 to 2–19–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Van Raalte Co., Inc., Blue Ridge, Ga.; 2–11–68 to 2–10–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Ainsbrooke, Division of Genesco, Inc., Carmi, Ill.; 2–1–68 to 1–31–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's woven underwear).

Circle Manufacturing Co., Thomasville, N.C.; 3–6–68 to 3–5–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' and children's pants).

Clarfert Manufacturing Co., Inc., Emmaus, Pa.; 3–1–68 to 2–28–69; 5 learners for normal labor turnover purposes (women's and children's underwear).

Ellwood Knitting Mills, Inc., Ellwood City, Pa.; 3–6–68 to 3–5–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' sweaters).

Hazlehurst Manufacturing Co., Inc., Hazlehurst, Ga.; 2–21–68 to 2–20–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (slips, panties, and children's sleepwear).

Rocky Mount Undergarment Co., Inc., Rocky Mount, N.C.; 2–24–68 to 2–23–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' and children's panties).

Spotlight Co., Inc., Ashdown, Ark.; 2–5–68 to 8–4–68; 10 learners for plant expansion purposes (ladies' slips and sleepwear).

Spotlight Co., Inc., Ashdown, Ark.; 2–17–68 to 2–16–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' slips and sleepwear).

Union Underwear Co., Inc., Frankfort, Ky.; 3–4–68 to 9–3–68; 100 learners for plant expansion purposes (men's and boys' underwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Glamourette Fashion Mills, Inc., Quebradillas, P.R.; 12–29–67 to 12–28–68; 15 learners for normal labor turnover purposes in the occupations of: (1) Knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours; and (2) machine stitching, pressing and hand sewing, each for a learning period of 320 hours at the rates of 98 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (sweaters, skirts, men's shirts, dresses, etc.).

Goodyale Corp., Rio Grande, P.R.; 1–1–68 to 12–31–68; 5 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 84 cents an hour (ladies' panties).

Midland Knitting Mills, Inc., San German, P.R.; 1–12–68 to 1–11–69; 10 learners for normal labor turnover purposes in the occupations of: (1) Knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours; and (2) machine stitching, for a learning period of 320 hours at the rates of 98 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (ladies' sweaters).

Northridge Knitting Mills, Inc., Sam German, P.R.; 1–12–68 to 1–11–69; 10 learners for normal labor turnover purposes in the occupations of: (1) Knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours; and (2) machine stitching, for a learning period of 320 hours at the rates of 98 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (ladies' sweaters).

Puritan Caribbean, Inc., Cidra, P.R.; 1–1–68 to 6–30–68; 50 learners for plant expansion purposes in the occupation of knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours (full-fashioned sweaters and shirts).

Rio Monte Manufacturing Corp., Rio Grande, P.R.; 12–18–67 to 12–17–68; 5 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 84 cents an hour (men's cotton pajamas).

Wendy Textile Mills, Inc., Quebradillas, P.R.; 12–29–67 to 12–28–68; 5 learners for normal labor turnover purposes in the occupations of: (1) Machine knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours; and (2) machine stitching, for a learning period of 320 hours at the rates of 98 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (sweaters, men's shirts, and dresses, etc.).

Each learner certificate has been issued upon the representations of the employer, which, among other things, were that employment of learners at special minimum wages is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 15th day of March 1968.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 68–3530; Filed, Mar. 22, 1968; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 20, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed

within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41263—*Superphosphate from Florida points to Fremont, Nebr.* Filed by O. W. South, Jr., agent (No. A5089), for interested rail carriers. Rates on superphosphate, not defluorinated superphosphate, nor feed grade superphosphate, in bulk, minimum weight 100,000 pounds per car, subject to volume minimum of not less than 500,000 pounds per shipment, from specified Florida producing points, to Fremont, Nebr.

Grounds for relief—Rail-barge-rail competition.

Tariff—Supplement 29 to Southern Freight Association, agent tariff ICC S–718.

FSA No. 41264—*Liquid caustic soda to Trion, Ga.* Filed by O. W. South, Jr., agent (No. A5090), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from Memphis, Tenn., to Trion, Ga.

Grounds for relief—Market competition.

Tariff—Supplement 176 to Southern Freight Association, agent, tariff ICC S–484.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68–3552; Filed, Mar. 22, 1968; 8:48 a.m.]

[Notice 571]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 20, 1968.

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 of Ex Parte No. MC 67 (49 CFR Part 340) 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 of 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 protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3560 (Sub-No. 36 TA), filed March 11, 1968. Applicant: GENERAL EXPRESSWAYS, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between junction bypass U.S. Highway 66 and Illinois Highway 3, and St. Charles, Mo., serving no intermediate points and serving the aforementioned points for purpose of joinder or interline only; from junction bypass U.S. Highway 66 and Illinois Highway 3 over bypass U.S. Highway 66 to junction Interstate Highway 270, thence over Interstate Highway 270 to junction Interstate Highway 70, thence over Interstate Highway 70 to St. Charles, and return over the same route. NOTE: Applicant intends to tack the authority here applied for to its other authority under Docket No. MC 3560, and specifically to its authority between Bloomington, Ill., and St. Louis, Mo., over bypass U.S. Highway 66 and Illinois Highway 3, and applicant proposes to interline at St. Charles, Mo. with Navajo Freight Lines, Inc., for 180 days. Supporting shipper: Navajo Freight Lines, Inc., 1205 South Platte River Drive, Denver, Colo. 80223. Send protests to: District Supervisor C. W. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 41116 (Sub-No. 34 TA), filed March 11, 1968. Applicant: FOGLEMAN TRUCK LINE, INC., Post Office Box 1504, 1724 West Mill Street, Crowley, La. 70526. Applicant's representative: Byron Fogleman (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial urea*, in bags, from Lake Charles, La., to Lufkin, Tex., for 180 days. Supporting shipper: Olin Mathieson Chemical Corp., 745 Fifth Avenue, New York, N.Y. 10022. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T–4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 76032 (Sub-No. 223 TA), filed March 11, 1968. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between St. Louis, Mo., and junction U.S. Highway 40 and Interstate Highway 70, near Wentzville, Mo., serving no intermediate points, except St. Charles, Mo., and serving St. Charles, Mo. and the junction U.S. Highway 40 and Interstate Highway 70 for purposes of joinder or interline only; from St. Louis over Interstate Highway 70 to junction U.S. Highway 40, and return over the same route, for 180 days. NOTE: Applicant proposes to tack the authority here applied for to its existing authority over U.S. Highway 40 between St. Louis, Mo., and Kansas City, Mo., and it proposes to interline at St. Charles, Mo., with General Expressways, Inc., MC 3560, which is controlled through stock ownership under authority of the Commission as granted in Docket No. MC–F–7530. Supporting shipper: General Expressways, Inc., 1205 South Platte River Drive, Denver, Colo. 80223. Send protests to: District Supervisor C. W. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 82841 (Sub-No. 44 TA), filed March 11, 1968. Applicant: R. D. TRANSFER, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Marshall D. Becker, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irreglar routes, transporting: (1) *Material handling equipment; winches; compaction and road making equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*, and (2) *Parts, attachments and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co., located at or near Danville, Kewanne, and Peoria, Ill., on the one hand, and, on the other, points in Nebraska, Colorado, Kansas, and points in Iowa on and west of Highway 69. Restricted to the handling of traffic originating at or destined to the named plantsites, for 180 days. Supporting shipper: Hyster Co., 2902 Northeast Clackamas, Portland, Oreg. 97208, David C. Williams, General Traffic Manager. Send protests to: Keith P. Kohrs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 106497 (Sub-No. 41 TA), filed March 11, 1968. Applicant: PARKHILL TRUCK COMPANY, 4219 South Memorial Drive, Post Office Box 3807, 74152 Tulsa, Okla. 74145. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and road making equipment, rollers, self-propelled and non-self-propelled; mobile cranes, and highway freight trailers*, and (2) *Parts attachments and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, New Mexico, Ohio, Oklahoma, Texas, and Wyoming. Restricted to the handling of traffic originating at or destined to the named plantsites, for 180 days. Supporting

shipper: David C. Williams, General Traffic Manager, Hyster Co., 2902 Northeast Clackamas, Portland, Oreg. 97208. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 107818 (Sub-No. 44 TA), filed March 12, 1968. Applicant: GREENSTEIN TRUCKING COMPANY, 280 Northwest 12th Avenue, Post Office Box 608, Pompano Beach, Fla. 33060. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Appleton, Wis., to points in Georgia and Florida, for 180 days. Supporting shipper: Elm Tree Baking Co., 3300 West College Avenue, Appleton, Wis. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 107839 (Sub-No. 122 TA), filed March 11, 1968. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4985 York Street, Post Office Box 16021, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, (1) from Denver, Colo., to points in Lubbock County, Tex., and (2) from Lubbock County, Tex., to Denver, Colorado Springs, and Pueblo, Colo., for 180 days. Supporting shipper: Vincent Bar-None Co., Inc., 2661 Walnut Street, Denver, Colo. 80205. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 114890 (Sub-No. 34 TA), filed March 11, 1968. Applicant: C. E. REYNOLDS TRANSPORT, INC., 2209 Range Line, Joplin, Mo. 64801. Applicant's representative: J. David Harden, Jr., 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Tulsa, Okla., to Springdale, Ark., for 180 days. Supporting shipper: Ozark-Mahoning Co., 1870 South Boulder, Tulsa, Okla. 74119. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 118610 (Sub-No. 12 TA), filed March 12, 1968. Applicant: L & B EXPRESS, INC., Post Office Box 1116, Owensboro, Ky. 42301. Applicant's representative: Fred F. Bradley, Suite 202–204, Court Square Office Building, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled mobile cranes, highway freight trailers*, and (2) *Parts, attachments, and accessories* for the aforenamed commodities, between the plantsites of the Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Kentucky and Indiana. Restricted to the handling of traffic originating at or destined to the named plantsites, for 180 days. Supporting shipper: David C. Williams, General Traffic Manager, Hyster Co., 2902 Northeast Clackamas, Portland, Oreg. 97208. Send protests to: District Supervisor Wayne L. Merilatt, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 129715 (Sub-No. 1 TA), filed March 11, 1968. Applicant: J. P. STEVENS, doing business as J. P. STEVENS TRUCKING COMPANY, 1608 South Date Street, Plainview, Tex. 79702. Applicant's representative: Sam Dawkins, Jr., 1306 First City National Bank Building, Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ammoniated rice hulls*, in bulk, from Houston, Tex., to points in New Mexico, Colorado, Oklahoma, and Kansas, for 180 days. Supporting shipper: O. S. Simpson, Jr., President, Delta Industries, Inc., Post Office Box 2328, Houston, Tex. 77001. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 129755 (Sub-No. 1 TA), filed March 11, 1968. Applicant: A. M. BICKLEY, INC., Marshallville, Ga. 31057. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic fan blades*, from Anderson, S.C., to Fort Valley, Ga., and (2) *Plastic fan grills*, from Daytona Beach, Fla., to Fort Valley, Ga., for 150 days. Supporting shipper: Cardinal Manufacturing Co., Post Office Box 312, Fort Valley, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-3553; Filed, Mar. 22, 1968; 8:48 a.m.]

[Notice 110]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 20, 1968.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 179:

No. MC-FC-70360. By application filed March 15, 1968, CLINTON TRUCKING CO., INC., 25 Bryant Avenue, East Milton, Mass. 02186, seeks temporary authority to lease the operating rights of MAX J. FRISCH, doing business as CLINTON TRUCKING COMPANY, 623 Main Street, Clinton, Mass., under section 210a(b). The transfer to CLINTON TRUCKING CO., INC., of the operating rights of MAX J. FRISCH, doing business as CLINTON TRUCKING COMPANY, is presently pending.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-3554; Filed, Mar. 22, 1968; 8:48 a.m.]

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