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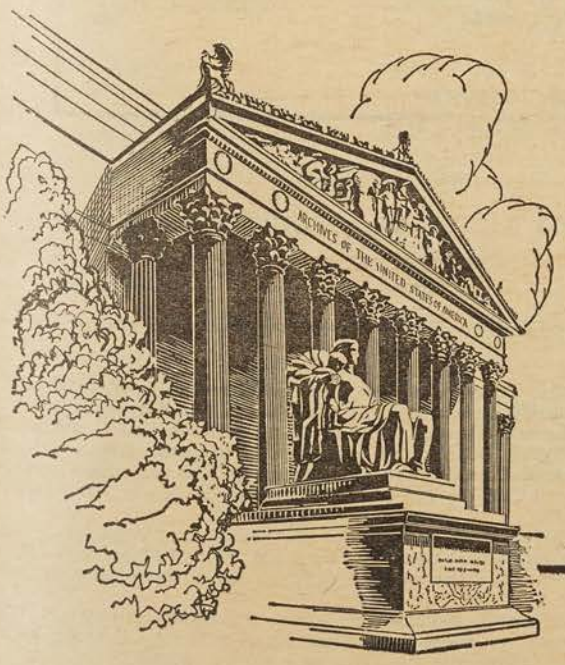

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Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter II—Packers and Stockyards Administration, Department of Agriculture

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Services and Facilities at Stockyards on Reasonable and Nondiscriminatory Basis

On September 11, 1968, notice was published in the FEDERAL REGISTER (33 F.R. 12852) regarding the proposed issuance of an interpretative statement with respect to providing services and facilities at stockyards on a reasonable and nondiscriminatory basis. Interested persons were given an opportunity to submit written data, views, or argument concerning the proposed statement. After consideration of all relevant matters, the following statement has been formulated and adopted by the Packers and Stockyards Administration, pursuant to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), for the guidance of stockyard owners and market agencies, and persons using stockyard services and facilities, and is issued as § 203.12 of Part 203, Chapter II, Title 9, Code of Federal Regulations, to read as follows:

§ 203.12 Statement with respect to providing services and facilities at stockyards on a reasonable and nondiscriminatory basis.

(a) Section 304 of the Packers and Stockyards Act (7 U.S.C. 205) provides that: "All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory * * *."

(b) Section 305 of the Act (7 U.S.C. 206) states that: "All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory * * *."

(c) Section 307 (7 U.S.C. 208) provides that: "It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services * * *."

(d) Section 312(a) (7 U.S.C. 213(a)) provides that: "It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce, of livestock."

(e) Section 301(b) (7 U.S.C. 201(b)) defines "stockyard services" as any "services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commissioned basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of livestock."

(f) It is the view of the Packers and Stockyards Administration that it is a violation of sections 304, 307, and 312(a) of the Act for a stockyard owner or market agency to discriminate, in the furnishing of stockyard services or facilities or in establishing rules or regulations at the stockyard, because of race, religion, color, or national origin of those persons using the stockyard services or facilities. Such services and facilities include, but are not limited to, the restaurant, restrooms, drinking fountains, lounge accommodations, those furnished for the selling, weighing, or other handling of the livestock, and facilities for observing such services.

(g) If the Packers and Stockyards Administration has reason to believe that any stockyard owner or market agency has so discriminated in the furnishing of stockyard services or facilities, consideration will be given to the issuance of a complaint charging the stockyard or market agency with violations of the Act.

This statement is for the purpose of setting forth the views of the Packers and Stockyards Administration to guide those persons engaging in business as livestock market agencies and stockyard owners in the furnishing of stockyard services or facilities, and persons using such stockyard services and facilities.

The foregoing statement shall become effective upon its publication in the FEDERAL REGISTER.

(Sec. 407(a), 42 Stat. 159, 72 Stat. 1750; 7 U.S.C. 228(a) interprets or applies secs. 304, 307, 312, 42 Stat. 161 et seq., as amended, 7 U.S.C. 205, 208, 213)

Done at Washington, D.C., this 20th day of November 1968.

DONALD A. CAMPBELL,
Administrator, Packers and Stockyards Administration.

[F.R. Doc. 68-14188; Filed, Nov. 25, 1968; 8:48 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT

Miscellaneous Amendments

On July 22, 1966, the Atomic Energy Commission published in the FEDERAL REGISTER (31 F.R. 9941) regulations for the packaging of fissile material and large quantities of licensed radioactive material, 10 CFR Part 71. The explanatory statement indicated the relationship of those regulations to the safety regulations of the Interstate Commerce Commission (ICC). Among other things, the regulations of the ICC under the Transportation of Explosives and Other Dangerous Articles Act prescribed the conditions of transport for shipments prepared in accordance with 10 CFR Part 71.

On April 1, 1967, the functions of the ICC under the Transportation of Explosives and Other Dangerous Articles Act were transferred to the Department of Transportation (DOT). The DOT has continued to apply the former ICC regulations pertaining to safety in the transportation of radioactive materials; those regulations are now known as the DOT's Hazardous Materials Regulations (49 CFR Parts 170–190, 14 CFR Part 103).

On January 20, 1968, the DOT published in the FEDERAL REGISTER (33 F.R. 750) for comment, as Notice 68–1, Docket No. HM–2, a proposed major revision of its regulations for transporting radioactive material. The DOT has given due consideration to the numerous comments received and, after consultation with the AEC and the atomic energy industry, has made modifications in the proposed requirements. On October 4, 1968, the DOT published in the FEDERAL REGISTER (33 F.R. 14918) a revision of its regulations pertaining to safety in transport of radioactive material, authorizing compliance on publication and making the amendments effective on December 31, 1968. The changes in the Commission's 10 CFR Part 71 set out below will conform 10 CFR Part 71 with the revision of the DOT regulations. Since the revision of the DOT regulations was published for public comment, the Commission has found that good cause exists for omitting notice of proposed rulemaking and public procedure thereon with respect to the following changes to 10 CFR Part 71, to correspond to the revision of the DOT regulations, as unnecessary.

One change in the DOT regulations which directly affects AEC licensees is the change from a limit of 40 radiation

units to a maximum transport index of 50 in a single vehicle or storage area. To implement that change, all existing licenses which authorize Fissile Class II packages are amended by a new § 71.14 to increase the minimum number to be placed on each Fissile Class II packaged by a factor of 1.25. All holders of such licenses will receive individual notification of this amendment.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of the United States Code, the following amendments of 10 CFR Part 71 are published as a document subject to codification, to be effective December 31, 1968. Compliance with these amendments is authorized on and after the date of publication in the FEDERAL REGISTER.

1. Paragraphs (d), (f), (g), and (p) of § 71.4 are amended to read as follows:

§ 71.4 Definitions.

* * * * *

(d) "Fissile classification" means classification of a package or shipment of fissile materials according to the controls needed to provide nuclear criticality safety during transportation as follows:

(1) Fissile Class I: Packages which may be transported in unlimited numbers and in any arrangement, and which require no nuclear criticality safety controls during transportation. For purposes of nuclear criticality safety control, a transport index is not assigned to Fissile Class I packages. However, the external radiation levels may require a transport index number.

(2) Fissile Class II: Packages which may be transported together in any arrangement but in numbers which do not exceed an aggregate transport index of 50. For purposes of nuclear criticality safety control, individual packages may have a transport index of not less than 0.1 and not more than 10. However, the external radiation levels may require a higher transport index number but not to exceed 10. Such shipments require no nuclear criticality safety control by the shipper during transportation.

(3) Fissile Class III: Shipments of packages which do not meet the requirements of Fissile Classes I or II and which are controlled in transportation by special arrangements between the shipper and the carrier to provide nuclear criticality safety.

* * * * *

(f) "Large quantity" means a quantity of radioactive material, the aggregate radioactivity of which exceeds any one of the following:

(1) For transport groups as defined in paragraph (p) of this section:

(i) Group I or II radionuclides: 20 curies;

(ii) Group III or IV radionuclides: 200 curies;

(iii) Group V radionuclides: 5,000 curies;

(iv) Group VI or VII radionuclides: 50,000 curies;

and

(2) For special form material as defined in paragraph (o) of this section: 5,000 curies.

(g) "Low specific activity material" means any of the following:

(1) Uranium or thorium ores and physical or chemical concentrates of those ores;

(2) Unirradiated natural or depleted uranium or unirradiated natural thorium;

(3) Tritium oxide in acqueous solutions provided the concentration does not exceed 5.0 millicuries per milliliter;

(4) Material in which the activity is essentially uniformly distributed and in which the estimated average concentration per gram of contents does not exceed:

(i) 0.0001 millicurie of Group I radionuclides; or

(ii) 0.005 millicurie of Group II radionuclides; or

(iii) 0.3 millicurie of Groups III or IV radionuclides.

NOTE: This includes, but is not limited to, materials of low radioactivity concentration such as residues or solutions from chemical processing; wastes such as building rubble, metal, wood, and fabric scrap, glassware, paper, and cardboard; solid or liquid plant waste, sludges, and ashes.

(5) Objects of nonradioactive material externally contaminated with radioactive material, provided that the radioactive material is not readily dispersible and the surface contamination, when averaged over an area of 1 square meter, does not exceed 0.0001 millicurie (220,000 disintegrations per minute) per square centimeter of Group I radionuclides or 0.001 millicurie (2,200,000 disintegrations per minute) per square centimeter of other radionuclides.

* * * * *

(p) "Transport group" means any one of seven groups into which radionuclides is normal form are classified, according to their toxicity and their relative potential hazard in transport, in Appendix C of this part.

(1) Any radionuclide not specifically listed in one of the groups in Appendix C shall be assigned to one of the Groups in accordance with the following table:

Radionuclide	Radioactive half-life		
	0 to 1000 days	1000 days to 10^6 years	Over 10^6 years
Atomic number 1-81.	Group III	Group II	Group III.
Atomic number 82 and over.	Group I	Group I	Group III.

(2) For mixtures of radionuclides the following shall apply:

(i) If the identity and respective activity of each radionuclide are known, the permissible activity of each radionuclide shall be such that the sum, for all groups present, of the ratio between the total activity for each group to the permissible activity for each group will not be greater than unity.

(ii) If the groups of the radionuclides are known but the amount in each group cannot be reasonably determined, the mixture shall be assigned to the most restrictive group present.

(iii) If the identity of all or some of the radionuclides cannot be reasonably determined, each of those unidentified radionuclides shall be considered as belonging to the most restrictive group which cannot be positively excluded.

(iv) Mixtures consisting of a single radioactive decay chain where the radionuclides are in the naturally occurring proportions shall be considered as consisting of a single radionuclide. The group and activity shall be that of the first member present in the chain, except that if a radionuclide "x" has a half-life longer than that of that first member and an activity greater than that of any other member, including the first, at any time during transportation, the transport group of the nuclide "x" and the activity of the mixture shall be the maximum activity of that nuclide "x" during transportation.

2. Section 71.5 is amended to read as follows:

§ 71.5 Exemptions.

A licensee is exempt from all of the requirements of this part to the extent that he delivers to a carrier for transport:

(a) Packages each of which contains no licensed material having a specific activity in excess of 0.002 μc/gram; or

(b) Packages each of which contains less than a large quantity of radioactive material, as defined in § 71.4(f), which may include one of the following:

(1) Not more than 15 grams of fissile material; or

(2) Thorium, or uranium containing not more than 0.72 percent by weight of fissile material; or

(3) Uranium compounds, other than metal, (e.g., UF_4, UF_6, or uranium oxide in bulk form, not pelletted or fabricated into shapes) or aqueous solutions of uranium, in which the total amount of uranium-233 and plutonium present does not exceed 1.0 percent by weight of the uranium-235 content, and the total fissile content does not exceed 1.00 percent by weight of the total uranium content; or

(4) Homogeneous hydrogenous solutions or mixtures containing not more than:

(i) 500 grams of any fissile material, provided the atomic ratio of hydrogen to fissile material is greater than 7600; or

(ii) 800 grams of uranium-235: *Provided,* That the atomic ratio of hydrogen to fissile material is greater than 5200, and the content of other fissile material is not more than 1 percent by weight of the total uranium-235 content; or

(iii) 500 grams of uramium-233 and uranium-235: *Provided,* That the atomic ratio of hydrogen to fissile material is greater than 5200, and the content of plutonium is not more than 1 percent by weight of the total uranium-233 and uranium-235 content; or

(5) Less than 350 grams of fissile material: *Provided,* That there is not more than 5 grams of fissile material in any cubic foot within the package.

3. Subparagraph (2) of § 71.6(b) is revised to read as follows:

§ 71.6 General license for shipment of licensed material.

* * * * *

(b) * * *

(2) No package contains fissile material in excess of the amounts specified in the following table, and each package is labeled with the corresponding transport index:

Maximum quantity of fissile material in a single package				Corresponding transport index
U-235 (grams)	U-233 (grams)	Plutonium (grams)	Plutonium as Pu-Be neutron sources (grams)	
35-40	27-30	23-25	320-400	10
30-35	24-27	21-23	240-320	8
25-30	21-24	19-21	160-240	6
20-25	18-21	17-19	80-160	4
15-20	15-18	15-17	15-80	2

NOTE. Combinations of fissile materials are authorized. For combinations of fissile materials, the transport index is the sum of the individual corresponding transport indexes. The total transport index shall not exceed 10.

4. Section 71.7 is revised to read as follows:

§ 71.7 General license for shipment in DOT specification containers.

A general license is hereby issued, to persons holding a general or specific license issued pursuant to this chapter, to deliver licensed material to a carrier for transport in a specification container for fissile material as specified in § 173.396 (b) or (c) or for a large quantity of radioactive material as specified in § 173.394(c) or § 173.395(c) of the regulations of the Department of Transportation, 49 CFR Part 173.

5. A new § 71.14 is added to read as follows:

§ 71.14 Amendment of existing licenses.

AEC licenses issued pursuant to this part and in effect on October 4, 1968, which authorize Fissile Class II packages are hereby amended by increasing the minimum number of units specified for each Fissile Class II package by a factor of 1.25. The new number shall be rounded up to the first decimal. In addition, the term "radiation units" is changed to "transport index" wherever used in the license.

6. Paragraph (a) of § 71.36 is revised to read as follows:

§ 71.36 Standards for hypothetical accident conditions for a single package.

(a) A package used for the shipment of a large quantity of radioactive material, as defined in § 71.4(f), or for the shipment of fissile material when the package will contain more than 0.001 curie of Group I radionuclides, 0.05 curie of Group II radionuclides, 3 curies of Group III radionuclides, 20 curies of Group IV or Group V radionuclides or radionuclides in special form, or 1,000 curies of Group VI or Group VII radionuclides shall be so designed and constructed and its contents so limited that if subjected to the hypothetical accident conditions specified in Appendix B of this part as the Free Drop, Puncture, Thermal, and Water Immersion conditions in the sequence listed in Appendix B, it will meet the following conditions:

(1) The reduction of shielding would not be sufficient to increase the external radiation dose rate to more than 1,000 millirems per hour at 3 feet from the external surface of the package.

(2) No radioactive material would be released from the package except for gases and contaminated coalant containing total radioactivity exceeding neither:

(i) 0.1 percent of the total radioactivity of the package contents; nor

(ii) 0.01 curie of Group I radionuclides, 0.5 curie of Group II radionuclides, 10 curies of Group III radionuclides, 10 curies of Group IV radionuclides, and 1,000 curies of inert gases irrespective of transport group.

A package need not satisfy the requirements of this paragraph if it contains only low specific activity materials, as defined in § 71.4(g), and is transported on a motor vehicle, railroad car, aircraft, inland water craft, or hold or deck of a seagoing vessel assigned for the sole use of the licensee.

* * * * *

7. Paragraph (b) of § 71.39 is amended to read as follows:

§ 71.39 Specific standards for a Fissile Class II package.

* * * * *

(b) The transport index for each Fissile Class II package is calculated by dividing the number 50 by the number of such Fissile Class II packages which may be transported together as determined under the limitations of paragraph (a) of this section. The calculated number shall be rounded up to the first decimal place.

8. Conditions 6, 7, and 8 of Appendix A are amended to read as follows:

APPENDIX A—NORMAL CONDITIONS OF TRANSPORT

* * * * *

6. *Free Drop*—Between 1½ and 2½ hours after the conclusion of the water spray test, a free drop through the distance specified below onto a flat essentially unyielding horizontal surface, striking the surface in a position for which maximum damage is expected.

FREE FALL DISTANCE

Package weight (pounds)	*Distance (feet)*
Less than 10,000	4
10,000 to 20,000	3
20,000 to 30,000	2
More than 30,000	1

7. *Corner Drop*—A free drop onto each corner of the package in succession, or in the case of a cylindrical package onto each quarter of each rim, from a height of 1 foot onto a flat essentially unyielding horizontal surface. This test applies only to packages which are constructed primarily of wood or fiberboard, and do not exceed 110 pounds gross weight, and to all Fissile Class II packagings.

8. *Penetration*—Impact of the hemispherical end of a vertical steel cylinder 1¼ inches in diameter and weighing 13 pounds, dropped from a height of 40 inches onto the exposed surface of the package which is expected to be most vulnerable to puncture. The long axis of the cylinder shall be perpendicular to the package surface.

* * * * *

9. Conditions 2, 3, and 4 of Appendix B are amended to read as follows:

APPENDIX B—HYPOTHETICAL ACCIDENT CONDITIONS

* * * * *

2. *Puncture*—A free drop through a distance of 40 inches striking, in a position for which maximum damage is expected, the top end of a vertical cylindrical mild steel bar mounted on an essentially unyielding horizontal surface. The bar shall be 6 inches in diameter, with the top horizontal and its edge rounded to a radius of not more than one-quarter inch, and of such a length as to cause maximum damage to the package, but not less than 8 inches long. The long axis of the bar shall be perpendicular to the unyielding horizontal surface.

3. *Thermal*—Exposure to a thermal test in which the heat input to the package is not less than that which would result from exposure of the whole package to a radiation environment of 1,475° F. for 30 minutes with an emissivity coefficient of 0.9, assuming the surfaces of the package have an absorption coefficient of 0.8. The package shall not be cooled artificially until 3 hours after the test period unless it can be shown that the temperature on the inside of the package has begun to fall in less than 3 hours.

4. *Water Immersion* (fissile material packages only)—Immersion in water to the extent that all portions of the package to be tested are under at least 3 feet of water for a period of not less than 8 hours.

10. Appendix C is amended as follows:

(a) Radionuclides A-37, A-41, and A-41 (Uncompressed)** are changed to Ar-37, Ar-41, and Ar-41 (uncompressed)**;

(b) Radionuclide Ba-133 in Group II is added immediately following Ba-131.

(c) Radionuclides Cd-109 and Cs-131 are changed from Group III to Group IV;

(d) Radionuclides Cs-134m, Cs-137, and Lu-172 are changed from Group IV to Group III;

(e) The words "as a gas * * *, or adsorbed on solid material" are added to the radionuclide H-3 (as gas or luminous paint), and the revised radionuclide is changed from Group VI to Group VII.

The revised listings in Appendix C read as follows:

APPENDIX C—TRANSPORT GROUPING OF RADIONUCLIDES

Element*	Radionuclide***	Group
* * *	* * *	* * *
Argon (18)	Ar-37	VI
	Ar-41	II
	Ar-41 (uncompressed)**	V
* * *	* * *	* * *
	Ba-133	II
* * *	* * *	* * *
Cadmium (48)	Cd-109	IV
* * *	* * *	* * *
Cesium (55)	Cs-131	IV
	Cs-134m	III
	* * *	* * *
	Cs-137	III
* * *	* * *	* * *
Lutecium (71)	Lu-172	III
* * *	* * *	* * *
	H-3 (as a gas, as luminous paint, or adsorbed on solid material).	VII
* * *	* * *	* * *

11. Item 4 of Appendix D is amended to read as follows:

APPENDIX D—TESTS FOR SPECIAL FORM LICENSED MATERIAL

* * * * *

4. *Immersion*—Immersion for 24 hours in water at room temperature. The water shall be at pH 6–pH 8, with a maximum conductivity of 10 micromhos per centimeter.

(Secs. 53, 63, 81, 161; 68 Stat. 930, 933, 935, 948, as amended; 42 U.S.C. 2073, 2093, 2111, 2201)

Dated at Washington, D.C., this 20th day of November 1968.

For the Atomic Energy Commission.

F. T. HOBBS,
Acting Secretary.

[F.R. Doc. 68–14161; Filed, Nov. 25, 1968; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 68–EA–102]

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

Alteration of Federal Airway Segment

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to realign the segment of VOR Federal airway No. 141 between Hyannis, Mass., and Boston, Mass.

V–141 segment between Hyannis and Boston is presently aligned via the intersection of Hyannis 332° T (347° M) and Boston 133° T (148° M) radials. This alignment provided separation with the Falmouth, Mass., Restricted Area/Military Climb Corridor, R–4103. The Restricted Area/Military Climb Corridor has since been revoked. Accordingly, action is being taken herein to make a minor realignment to V–141 segment by aligning it direct between Hyannis and Boston.

Since the maximum deviation of the new alignment from the present designation is approximately 3 miles to the southwest and the entire new designation is within airspace that is presently controlled, this alteration is minor in nature and notice and public procedure hereon is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 6, 1969, as hereinafter set forth.

In § 71.123 (33 F.R. 2009) V–141 is amended by deleting "12 AGL INT Hyannis 332° and Boston, Mass.; 133° radials; 12 AGL Boston;" and substituting "12 AGL Boston, Mass.;" therefor.

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

Issued in Washington, D.C., on November 19, 1968.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68–14171; Filed, Nov. 25, 1968; 8:46 a.m.]

[Airspace Docket No. 68–CE–53]

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

Alteration and Revocation of Federal Airways and Revocation of Reporting Points

On September 10, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 12783) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter and revoke certain VOR Federal airways and reporting points in the vicinity of Scotland and West Point, Ind.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Two comments were received in response to the notice. The comment received from the Air Transport Association of America concurred with the proposed actions. The comment received from the Chief Pilot, Purdue Airlines, did not object to the proposed airway actions. However, his comments were directed to the elimination of a straight-in approach to Runway 5 at the Purdue University Airport, Lafayette, Ind., which would result with the proposed decommissioning of the West Point, Ind., VOR. The proposal to decommission the West Point facility was contained in 67–CE–33NR, a non-rule-making docket. The Federal Aviation Administration is of the opinion that the overall movement of terminal traffic at Purdue University Airport will not be affected with the proposals contained in Airspace Docket No. 68–CE–53, or in non-rule-making Docket No. 67–CE–33NR, as there are three other navigational facilities with approved approach procedures available to be utilized for approaches into the Purdue University Airport.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective, 0901 G.m.t., February 6, 1969, as hereinafter set forth.

1. Section 71.123 (33 F.R. 2009, 11002, 13003) is amended as follows:

a. In V–4 "INT Evansville 068° and Louisville 280° radials;" is deleted and "INT Evansville 068° and Louisville 286° radials;" is substituted therefor.

b. V–7 "12 AGL West Point, Ind.;" is deleted.

c. In V–11 all between "12 AGL Evansville, Ind.;" and "12 AGL Fort Wayne, Ind.;" is deleted and "12 AGL Bloomington, Ind., including a 12 AGL east alternate; 12 AGL Indianapolis, Ind.;" is substituted therefor.

d. In V–49 "12 AGL Mystic, Ky.;" is deleted and "12 AGL INT Bowling Green 012° and Mystic, Ky., 186° radials; 12 AGL Mystic;" is substituted therefor.

e. In V–53 all between "12 AGL Louisville, Ky.;" and "12 AGL Peotone;" is deleted and "12 AGL INT Louisville 335° and Indianapolis 167° radials; 12 AGL Indianapolis; 12 AGL INT Indianapolis 312° and Lafayette, Ind., 159° radials; 12 AGL Lafayette; 12 AGL INT Lafayette 313° and Peotone, Ill., 152° radials;" is substituted therefor.

f. In V–128 all between "12 AGL Peotone;" and "12 AGL INT Indianapolis 137°" is deleted and "12 AGL INT Peotone 152° and Indianapolis, Ind., 312° radials;" is substituted therefor.

g. In V–171 all between "From Louisville, Ky.," and "12 AGL Danville, Ill.;" is deleted and "12 AGL INT Louisville 320° and Bloomington, Ind., 143° radials; 12 AGL Bloomington; 12 AGL Terre Haute, Ind.;" is substituted therefor.

h. In V–227 all before "12 AGL Roberts, Ill.;" is deleted and "From Lafayette, Ind.," is substituted therefor.

i. In V–243 "12 AGL Scotland, Ind." is deleted and "12 AGL Bloomington, Ind." is substituted therefor.

j. V–491 is revoked.

2. In § 71.203 (33 F.R. 2280) "Scotland, Ind." and "West Point, Ind." are revoked.

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

Issued in Washington, D.C., on November 18, 1968.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68–14172; Filed, Nov. 25, 1968; 8:46 a.m.]

[Airspace Docket No. 68–SO–77]

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

Alteration of Transition Area

On October 12, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 15260), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Wilmington, N.C., 700-foot transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 6, 1969, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Wilmington, N.C., 700-foot transition area (33 F.R. 14285) is amended to read:

WILMINGTON, N.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of New Hanover County Airport (lat. 34°16'11" N., long. 77°54'14" W.); within 2

miles each side of the Wilmington VORTAC 017° radial, extending from the 8-mile radius area to 8 miles north of the VORTAC; within 2 miles each side of the ILS localizer south course, extending from the 8-mile radius area to 8 miles south of the LOM; within 2 miles each side of the ILS localizer north course extending from the 8-mile radius area to 8 miles north of Wesley Intersection;

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

Issued in East Point, Ga., on November 19, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 68-14173; Filed, Nov. 25, 1968; 8:46 a.m.]

[Airspace Docket No. 68-SO-80]

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

Alteration of Control Zone and Designation of Transition Area

On October 9, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 15069), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Crestview, Fla., control zone and designate the Crestview, Fla., transition area.

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

Subsequent to publication of the notice, the geographic coordinate (lat. 30°46'45'' N., long. 86°31'10'' W.) for Bob Sikes Airport, and (lat. 30°54'25'' N., long. 86°35'00'' W.) for Rockin H Ranch Airport, was obtained from Coast and Geodetic Survey.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the descriptions accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 6, 1969, as hereinafter set forth.

In § 71.171 (33 F.R. 2058), the Crestview, Fla., control zone is amended to read:

CRESTVIEW, FLA.

Within a 5-mile radius of Bob Sikes Airport (lat. 30°46'45'' N., long. 86°31'10'' W.); within 2 miles each side of the Crestview VORTAC 109° radial, extending from the 5-mile radius zone to 0.5 mile east of the VORTAC.

In § 71.181 (33 F.R. 2137), the following transition area is added:

CRESTVIEW, FLA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Bob Sikes Airport (lat. 30°46'45'' N., long. 86°31'10'' W.), excluding the portion within a 1.5-mile radius of Rockin H Ranch Airport (lat. 30°54'25'' N., long. 86°35'00'' W.).

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

Issued in East Point, Ga., on November 19, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 68-14174; Filed, Nov. 25, 1968; 8:47 a.m.]

[Airspace Docket No. 68-SO-56]

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

Designation of Control Zone and Alteration of Transition Area

On September 21, 1968, F.R. Doc. 68-11502, effective November 14, 1968, was published in the FEDERAL REGISTER (33 F.R. 14285) amending Part 71 of the Federal Aviation Regulations.

Subsequent to publication of the rule, the airline personnel who will be performing aviation weather observations and reporting duties during the time the control zone is in effect advised that their hours of operation, effective November 14, 1968, would be changed to "0700 to 2300 local time, Monday through Friday, and 0700 to 1730 local time, Saturday." Accordingly, it is necessary to alter the part-time control zone description.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 68-11502 is amended as follows:

In line seven of the Greenwood, S.C., part-time control zone description "* * * 0615 to 2245 local time, Monday through Friday, 0615 to 1830 local time, Saturday * * *." is deleted and "* * * 0700 to 2300 local time, Monday through Friday, 0700 to 1730 local time Saturday * * *." is substituted therefor.

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

Issued in East Point, Ga., on November 19, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 68-14175; Filed, Nov. 25, 1968; 8:47 a.m.]

[Airspace Docket No. 68-SO-92]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Spartanburg, S.C., transition area.

The Spartanburg transition area is described in § 71.181 (33 F.R. 2137).

In the description, extensions are predicated on the Spartanburg VOR 194° and 014° radials. Since the final approach radials of AL-401-VOR RWY-17 standard instrument approach procedure have changed from 194° and 014° to 196° and 016°, it is necessary to alter the description accordingly.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Spartanburg, S.C., transition area is amended as follows:

"* * * Spartanburg VORTAC 194° and 014° * * *" is deleted and "* * * Spartanburg VORTAC 196° and 016° * * *" is substituted therefor.

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

Issued in East Point, Ga., on November 15, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 68-14176; Filed, Nov. 25, 1968; 8:47 a.m.]

[Airspace Docket No. 68-EA-29]

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

Designation of Transition Area

On page 6939 of the FEDERAL REGISTER of May 8, 1968, the Federal Aviation Administration published a proposed rule which would designate a 700-foot transition area on Accomack County Airport, Melfa, Va.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., January 9, 1969.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on November 13, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Melfa, Va., transition area described as follows:

MELFA, VA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 37°38'50'' N., 75°45'40'' W., of Accomack County Airport, Melfa, Va., and within 2 miles each side of a 200° bearing from the Melfa, Va., RBN 37°39'27'' N., 75°45'27'' W., extending from the 6-mile radius area to 8 miles south of the RBN.

[F.R. Doc. 68-14177; Filed, Nov. 25, 1968; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Dockets Nos. 5811, 6307, 6759, 6792, 6802, 8187, 8613]

PART 13—PROHIBITED TRADE PRACTICES

New American Library of World Literature, Inc., et al.

The New American Library of World Literature, Inc., et al., Docket No. 5811 (30 F.R. 3879); Matthew Huttner et al., Docket No. 6307 (20 F.R. 5157); Dell Publishing Co., Inc., Docket No. 6759 (23 F.R. 4450); A. A. Wyn, Inc., et al., Docket No. 6792 (30 F.R. 3762); Bantam Books, Inc, Docket No. 6802 (24 F.R. 473); Fawcett Publications, Inc., et al., Docket No. 8187 (26 F.R. 5995); and Belmont Productions, Inc., et al., Docket No. 8613 (29 F.R. 12958).

Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1880 *Old, used, or reclaimed as unused or new:* 13.1880–20 Book titles. Subpart—Using misleading name—Goods: § 13.2320 *Old, secondhand, reconstructed, or reused as new:* 13.2320–10 Book titles.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified cease and desist orders in the seven above-captioned proceedings, dated Oct. 28, 1968]

In the Matters of: *The New American Library of World Literature, Inc., a Corporation Kurt Enoch and Victor Weybright, Individually and as Officers of The New American Library of World Literature, Inc., a Corporation,* Docket No. 5811; *Matthew Huttner and Alfred R. Plaine, Copartners Trading Under the Firm Name of Pyramid Books,* Docket No. 6307; *Dell Publishing Co., Inc., a Corporation,* Docket No. 6759; *A. A. Wyn, Inc., a Corporation, and Aaron A. Wyn and Rose Wyn, Individually and as Officers of A. A. Wyn, Inc.,* Docket No. 6792; *Bantam Books, Inc., a Corporation,* Docket No. 6802; *Fawcett Publications, Inc., a Corporation, and Wilfred Fawcett and Gordon Fawcett, Individually and as Officers of Said Corporation,* Docket No. 8187; and *Belmont Productions, Inc., a Corporation, and John L. Goldwater, Louis H. Silberkleit, Stanley P. Morse, and Maurice Coyne, Individually and as Officers of the Said Corporation,* Docket No. 8613.

Orders modifying earlier orders which prohibited seven New York City publishers from selling book reprints under different titles without disclosing the original titles by adding to the disclosure provision that such books were published "in the English language in the United States."

The modified order to cease and desist, is as follows:

It is ordered, That said proceedings be, and they hereby are, reopened and modified by revising paragraph 2 thereof to read as follows: "Using or substituting a new title in place of the title under which a book was first published in the English language unless a statement which reveals the first English language title and that it has been published previously thereunder and each and every title under which said book was previously published in the English language in the United States and that it has been published previously thereunder appears in clear, conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser."

It is further ordered, That said order [In the Matter of The New American Library of World Literature, Inc., et al. Docket No. 5811] be, and it hereby is, modified by changing the name of the corporate respondent to "The New American Library, Inc."

Issued: October 28, 1968.

By the Commission.[1]

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

[F.R. Doc. 68-14157; Filed, Nov. 25, 1968; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Inclusion of Provision in Cooperative Advertising Agreements Limiting Price Advertising by Retailers

§ 15.309 Inclusion of provision in cooperative advertising agreements limiting price advertising by retailers.

(a) The Commission rendered an advisory opinion regarding a proposal to include the following statement in cooperative advertising agreements to be drafted by the requesting party for use by manufacturer-clients for the purpose of placing a restriction on price advertising practices by their retailer-customers: "Dealer advertising will not qualify for cooperative reimbursement if it is featured at a price below the retailer's wholesale price (loss leader type) since such advertising tends to lower the quality image of the product in the consumer's mind."

(b) The requesting party explained that this provision is intended to assist manufacturer-clients to protect the quality of their brand image through providing them with the means for limiting the payment of promotional allowances to those retailer-customer advertisements which mention price at or above the retailer's wholesale price level. He took the position that such limitation would not affect any retailer's markup picture.

[1] Commissioner MacIntyre abstained from this action of the Commission but without prejudice to his participation in future actions and decisions of the Commission regarding this matter.

(c) The Commission advised that the question posed does not readily lend itself to a categorical answer which, necessarily, would be affected by the facts surrounding any manufacturer-client's use of the restriction. Considering the various possibilities which may arise, the Commission is of the opinion, however, that it cannot give its approval to the use of such provision in any advertising allowance program which may be used on a continuing, year-round basis. In such programs a manufacturer customarily offers to pay, on proportional terms, a fixed percentage of his customer's advertising costs at any time during the year. To incorporate such a restriction in that kind of promotional program would, in the Commission's view, have a tendency to fix or establish a permanent floor under resale prices which would be of questionable legality under the antitrust laws.

(d) The Commission further pointed out that it does not see the same objection to the use of such provision in situations where the promotional offer is made on an infrequent or intermittent basis during the year. In such instances the offer is usually made for a special purpose, such as to stimulate off-season sales or at times during the year to fit in with an overall marketing program. In these situations, the Commission advised, it does not foresee the same restrictive effects on resale prices when a manufacturer, who is otherwise complying with the law, provides that he will not pay any part of the cost of advertising featuring a price below the retailer's wholesale cost.

(e) It is, of course, assumed that the promotional advertising allowance offer will be made to all retailers irrespective of the prices that they have been charging at other times.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: November 25, 1968.

By direction of the Commission.[1]

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

[F.R. Doc. 68-14205; Filed, Nov. 25, 1968; 8:48 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Disclosure of Country of Origin of Imported Watch Bands

§ 15.310 Disclosure of country of origin of imported watch bands.

(a) The Commission was requested to furnish an advisory opinion as to the necessity for the disclosure of the country of origin of a watch band or watchcase which was attached to a watch in a

[1] Dissenting statement of Commissioner Elman filed as part of original document. Commissioner MacIntyre did not participate for the reason that he considers both the advisory opinion and the dissent thereto to be so confusing as to render them not only valueless but also perhaps troublesome to the business community.

foreign country prior to importation into the United States.

(b) The Commission advised that in its view the fact that the watchcases are imported need not be disclosed and that the country of origin of a watchcase with a watch band permanently affixed thereto need not be disclosed, but that the country of origin of a metallic watch band of the detachable type must be disclosed.

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

Issued: November 25, 1968.

By direction of the Commission.

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

[F.R. Doc. 68–14204; Filed, Nov. 25, 1968; 8:48 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Origin Disclosure of Imported Upper Material Used in Shoes

§ 15.311 Origin disclosure of imported upper material used in shoes.

(a) The Commission rendered an advisory opinion to the supplier of certain synthetic fabric which is to be used in footwear as an upper material. The opinion dealt with various questions relating to the necessity to disclose the origin of the fabric, which is made wholly or in part in a foreign country.

(b) Sold directly to shoe manufacturers, the material will be used in the manufacture of dress and casual shoes, including playtime or tennis shoes, but not work shoes or work boots. Under one method of production, the yarn would be extruded domestically but would be woven, dyed, and backed in a foreign country. Such upper material made abroad would represent approximately 25 percent of total material costs for women's shoes and approximately 28 percent for men's shoes. Under the second contemplated method of production, the fabric will be made abroad in its entirety. Where the upper material is completely of foreign origin, it will represent approximately 35 to 40 percent of total material costs for a pair of women's shoes and approximately 40 percent of total material costs for men's shoes.

(c) In responding to the request for an advisory opinion, the Commission made the following general observations:

(1) "* * * First, the Commission construes any affirmative representation that products are made in the U.S.A., as constituting an affirmative representation that the products are made in their entirety in this country unless there is a clear and conspicuous disclosure of the origin of the imported part or parts."

(2) "Further, in the absence of any affirmative misrepresentation as to origin, the Commission is of the opinion that, under the facts as presented, it will not be necessary to disclose the country of origin of the imported upper material.

(3) "Lastly, you have inquired as to whether disclosure would be required if the shoes are manufactured by a well-known American concern or bear a well-known American trademark. The answer to this question would depend upon whether, as a practical matter, the use of such name or trademark constitutes a representation of domestic origin. The Commission believes that each such case must be judged on its own merits in view of the surrounding facts and circumstances, and that no rule of general application can be announced."

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

Issued: November 25, 1968.

By direction of the Commission.

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

[F.R. Doc. 68–14206; Filed, Nov. 25, 1968; 8:48 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68–289]

PART 11—PACKING AND STAMPING; MARKING; TRADEMARKS AND TRADE NAMES; COPYRIGHTS

Country of Origin Marking

NOVEMBER 18, 1968.

There was published in the FEDERAL REGISTER on August 31, 1968 (33 F.R. 12332), a notice of proposed rule making to amend §§ 11.8 and 11.10 of the Customs Regulations relating to the country of origin marking of imported articles and their containers to avoid the possibility of misleading or deceiving the ultimate purchaser when the article or its container bears any inscription which could reasonably be construed to imply that the article was manufactured or produced in the United States or in a foreign country other than the actual country of manufacture or production. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below:

Section 11.8 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding subparagraphs (2) and (3) as follows:

§ 11.8 Marking of articles and containers to indicate name of country of origin.

(a) * * *

(2) In any case in which the words "United States" or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any place, country, or locality other than that in which the article was manufactured or produced appear on an imported article or its retail container in a manner which could be construed as indicating the place of origin of the article, the name of the country of origin preceded by "Made in," "Product of," or other words of similar import shall appear legibly, conspicuously, and permanently in proximity to such words, letters, or name.

(3) Articles such as souvenirs which bear the name of a location in the United States, or articles on which words such as "United States" or "America" appear as part of a trademark or trade name, shall not be deemed to be marked in violation of this section if they are legibly, conspicuously, and permanently marked to indicate the name of the country of origin preceded by "Made in," "Product of," or other similar words, in some other conspicuous location.

* * * * *

Section 11.10 is amended by adding the following sentence at the end of paragraph (a):

§ 11.10 Exceptions to marking requirements.

(a) * * * An exception from marking shall not apply to any article or retail container bearing any words, letters, or names described in § 11.8(a)(2) which imply that an article was made or produced in a country other than the actual country of origin.

* * * * *

(Secs. 304, 624, 46 Stat. 687, as amended, 759; 19 U.S.C. 1304, 1624)

These amendments shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

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

Approved: November 14, 1968.

JOSEPH M. BOWMAN, *Assistant Secretary of the Treasury.*

[F.R. Doc. 68–14168; Filed, Nov. 25, 1968; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

CLOPIDOL, 3-NITRO-4-HYDROXYPHENYLARSONIC ACID

A. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by The Dow Chemical Co., Post Office Box 512, Midland, Mich. 48641, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of clopidol in chicken

feed for the prevention of coccidiosis as described below. (In the notice of filing published in the FEDERAL REGISTER of August 9, 1966 (31 F.R. 10616), the additive was referred to as "meticlorpindol.") The additive is to be used alone or in combination with 3-nitro-4-hydroxyphenylarsonic acid added for growth promotion and feed efficiency and improving pigmentation.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended in Subpart C as follows:

1. Section 121.262(c) is amended by adding to table 1 a new item 1.11, as follows:

§ 121.262 3-Nitro-4-hydroxyphenylarsonic acid.

* * * * * *

(c) * * *

TABLE 1—3-NITRO-4-HYDROXYPHENYLARSONIC ACID IN COMPLETE CHICKEN AND TURKEY FEED

	Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
	* * *	* * *	* * *	* * *	* * *	* * *
1.10	* * *					
1.11	3-Nitro-4-hydroxyphenylarsonic acid.	45.4 (0.005%)	Clopidol	113.5 (0.0125%)	For broiler chickens; do not feed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic.	Growth promotion and feed efficiency; improving pigmentation; aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.
	* * *	* * *	* * *	* * *	* * *	* * *

2. The following new section is added to Subpart C:

§ 121.325 Clopidol.

Clopidol may be safely used in accordance with the following prescribed conditions:

(a) The additive is the chemical 3,5-dichloro-2,6-dimethyl-4-pyridinol.

(b) It is used or intended for use as follows:

	Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1.	Clopidol	113.5 (0.0125%)			For broiler chickens; do not feed to laying chickens.	Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.
2.	Clopidol	113.5 (0.0125%)	3-Nitro-4-hydroxyphenylarsenic acid.	45.4 (0.005%)	For broiler chickens; do not feed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic.	Growth promotion and feed efficiency; improving pigmentation; aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

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

(1) The name of the additive.

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

(3) Adequate directions and warnings for use.

B. Based upon the data before him and proceeding under the authority of the act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), delegated as cited above, the Commissioner further concludes that:

1. Tolerance limitations are required to assure that the edible tissues and by-products of chickens treated in accordance with the preceding amendments are safe for human consumption.

2. Where incidental exposure to the additive occurs, safe tolerances must be provided for the presence of the additive in such commodities. Data show that residues of the additive accumulate in poultry litter, and that where litter from treated birds is used for the fertilization of crops, as is generally the case, incidental residues of the additive are carried over into such crops and also may accumulate in edible products of livestock consuming these crops.

Accordingly, the following new section is added to Subpart D:

§ 121.1223 Clopidol.

Tolerances for residues of clopidol (3,5-dichloro-2,6-dimethyl-4-pyridinol) in food are established as follows:

Cereal grains, vegetables, and fruits: 0.2 part per million.

Chickens: 15 parts per million in liver and kidney; 5 parts per million in muscle.

Meat of cattle, sheep, and goats: 3 parts per million in kidney; 1.5 parts per million in liver; 0.2 part per million in muscle.

Meat of swine: 0.2 part per million in edible tissues.

Milk: 0.02 part per million (negligible residue).

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

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

(Secs. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4))

Dated: November 14, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-14039; Filed, Nov. 25, 1968; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4537]

[Oregon 3660]

OREGON

Withdrawal for Public Recreation Sites

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. Subject to valid existing rights, the following described revested Oregon and California Railroad grant lands and 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 protection of public recreation values:

WILLAMETTE MERIDIAN

WILDWOOD RECREATION SITE

T. 2 S., R. 7 E.,
Sec. 31, lot 4, S½NE¼, E½SW¼, and SE¼.

SALMON FALLS RECREATION SITE

T. 8 S., R. 4 E.,
Sec. 31, lots 3, 4, and 10.

MISSOURI BEND RECREATION SITE

T. 14 S., R. 9 W.,
Sec. 13, NE¼SE¼SW¼.

UMPQUA RECREATION SITE

T. 25 S., R. 7 W.,
Sec. 9, lots 1, 2, 3, and 4;
Sec. 10, lot 2;
Sec. 15, lot 3.

The areas described aggregate 621.04 acres in Benton, Clackamas, Douglas, and Marion Counties.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1968.

[F.R. Doc. 68-14153; Filed, Nov. 25, 1968; 8:45 a.m.]

[Public Land Order 4538]

[Oregon 2282, 2796, 2900]

OREGON AND WASHINGTON

Withdrawal for National Forest Botanical and Recreation Areas

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. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

[Oregon 2282]

MALHEUR NATIONAL FOREST

WILLAMETTE MERIDIAN

Cedar Grove Area

T. 14 S., R. 28 E.,
Sec. 22, E½SE¼;
Sec. 23, SW¼NW¼ and NW¼SW¼.

The areas described aggregate 160 acres in Grant County.

[Oregon 2796–Wash.]

OKANOGAN NATIONAL FOREST

WILLAMETTE MERIDIAN

Beth-Beaver Lake Complex Campground and Recreation Area

T. 39 N., R. 30 E.,
Sec. 23, S½SE¼NE¼SE¼ and NE¼SE¼SE¼;
Sec. 24, SW¼NW¼SW¼, W½NE¼SW¼SW¼, SE¼NE¼SW¼SW¼, NW¼SW¼SW¼, N½SW¼SW¼SW¼, N½SE¼SW¼SW¼, SE¼SE¼SW¼SW¼, and SW¼SE¼SW¼;
Sec. 25, N½N½, lot 3 (N½N½NE¼SE¼), S½NE¼NE¼NW¼, NW¼NE¼NW¼, SE¼NE¼NW¼, S½NW¼NW¼NE¼, SW¼NW¼NE¼, S½SE¼NW¼NE¼, E½SW¼NE¼, and E½NW¼SW¼NE¼.

The areas described aggregate 145 acres in Okanogan County.

[Oregon 2900]

SISKIYOU NATIONAL FOREST

WILLAMETTE MERIDIAN

Lower Rogue River Recreation Area Addition

T. 34 S., R. 11 W.,
Sec. 4, SW¼SE¼.

T. 35 S., R. 12 W.,
Sec. 10, lot 7;
Sec. 11, lots 6, 7, and 8;
Sec. 14, NE¼NW¼;
Sec. 20, portions of lot 3 and SW¼NE¼, described as follows:

Beginning at a 48 inches diameter fir tree located beside a creek, said tree being 2,629 feet south and 1,240 feet west of northeast corner of said section, thence (Var. 20° E.) down center of said creek approximately S. 43°50′ E., 190.3 feet; thence S. 53°20′ E., 230 feet, more or less, to ordinary highwater mark of Rogue River; thence downstream in southwest direction following right bank of Rogue River a distance of 900 feet, more or less, to a point in center of an unnamed creek, which forms east boundary of a tract of land leased to John F. and Sadie Adams, described in lease recorded in Bk. 2, p. 276, Curry County Lease Records on file in County Clerk's Office; thence following centerline of said creek upstream in northwest direction to a point which is 200 feet downstream from a cross chipped on a rock in center of said creek, which rock marks northeast corner of tract described in above lease, from said point northeast approximately 1,000 feet in a straight line to point of beginning, said 48 inches fir tree, also described in deed from John F. and Sadie E. Adams to Walter W. Orebaugh, recorded in Curry County Deed Records, Bk. 31, p. 124.

Sec. 20, portions of lot 4 and NE¼SW¼, described as follows:

Beginning at a large boulder at mouth of Tommy East Creek marked with an "X" on top, described in official records of Curry County, Oreg., Deed Book 31, p. 121, as being 13.16 chains north and 33.54 chains east of southwest corner of said sec. 20; thence following approximate ordinary highwater line of Rogue River S. 49°50′ W., 681.8 feet, the true point of beginning; thence N. 14°21′ W. to west line of NE¼SW¼; thence south along said west line and west line of lot 4 to a point S. 60°43′ W., 229.8 feet and S. 51°30′ W. 207.9 feet from point of beginning; thence following approximate ordinary highwater line of Rogue River N. 60°43′ E., 229.8 feet; thence N. 51°30′ E., 207.9 feet to point of beginning.

T. 36 S., R. 13 W.,
Sec. 2, lots 2 and 8.

The areas described aggregate 256 acres in Curry County.

The total area withdrawn by this order is approximately 561 acres.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1968.

[F.R. Doc. 68-14154; Filed, Nov. 25, 1968; 8:45 a.m.]

[Public Land Order 4556]

[Nevada 051773]

NEVADA

Revocation of Air Navigation Site Withdrawal

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

1. The departmental order of February 18, 1941, withdrawing the following described public land as Air Navigation Site Withdrawal No. 155, is hereby revoked:

MOUNT DIABLO MERIDIAN

T. 25 S., R. 57 E.,
Sec. 6, lots 10, 11;
Sec. 7, lot 4.

The area described contains 74.33 acres in Clark County.

The lands are located on the Nevada-California boundary in Sandy Valley. The soil is sandy loam and supports typical desert shrubs.

2. At 10 a.m. on December 25, 1968, the public lands shall be open to operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law and procedures. All valid applications received at or prior to 10 a.m. on December 25, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land has been open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nevada 89502.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 19, 1968.

[F.R. Doc. 68-14155; Filed, Nov. 25, 1968; 8:45 a.m.]

[Public Land Order 4557]

[Oregon 2945]

OREGON

Withdrawal for National Forest Administrative Site and Recreation Area

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. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

WILLAMETTE MERIDIAN

WHITMAN NATIONAL FOREST

Grande Ronde Guard Station and River Campground

T. 5 S., R. 35 E.,
Sec. 13, E½NE¼, E½W½NE¼, and E½NE¼SE¼.
T. 5 S., R. 36 E.,
Sec. 18, W½ lot 2 and W½ lot 3.

Woodley Campground

T. 6 S., R. 36 E.,
Sec. 4, SW¼SW¼NW¼ and N½NW¼SW¼;
Sec. 5, S½ lot 2, E½SW¼NE¼, E½W½SW¼NE¼, S½SE¼NE¼, and NE¼NE¼SE¼.

The areas described aggregate 296.57 acres in Union County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 19, 1968.

[F.R. Doc. 68-14156; Filed, Nov. 25, 1968; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Oil Import Administration

[32A CFR Ch. X]

[Oil Import Reg. 1 (Rev. 5)]

REPORTS, PETROCHEMICAL PLANT INPUTS AND AROMATICS

Notice of Proposed Rule Making

1. Oil Import Regulation 1 (Revision 5), as amended, provides that each person who imports crude oil, unfinished oils or finished products under a license, and each person who exchanges oil pursuant to section 17, shall report to the Administrator the quantities imported and the quantities exchanged, as the case may be, including any changes made in an exchange agreement during an allocation period. While most importers comply with these requirements of the regulations, there are some who consistently violate them, and the mounting number of inaccurate and tardy reports has made accurate and timely accounting for imports impossible. Accordingly, in order to emphasize the importance of accurate and timely reporting by all importers, it is proposed to amend section 18 of Oil Import Regulation 1 (Revision 5), as amended (31 F.R. 7745), to add the following new paragraph (c):

Sec. 18 Reports.

* * * * *

(c) (1) After the effective date of this paragraph, if the Administrator determines that a report on imports filed by a person in accordance with paragraph (a) of this section is erroneous, the Administrator shall (i) notify the person in writing of the respects in which the report is deemed to be in error, (ii) give the person a reasonable time within which to show that no errors were made, and (iii) inform the person that, absent a showing that no errors were made, the Administrator will impose the penalty provided for in subparagraph (4) of this paragraph if the person subsequently submits a report which is determined by the Administrator to be erroneous and which, within a reasonable time specified in a written notice to the person, is not shown to be correct.

(2) After the effective date of this paragraph, if a person fails to file a report on imports required by paragraph (a) of this section within the time specified by that paragraph, the Administrator shall notify the person in writing that thereafter the Administrator will impose the penalty provided by subparagraph (4) of this paragraph for failure to file a report on time.

(3) After the effective date of this paragraph, if any action is taken under an exchange agreement made by the holder of an allocation before a report of the agreement or of a change in an agreement is made to the Administrator as required by section 17 and paragraph (b) of this section, the Administrator shall notify the holder of the allocation in writing that the Administrator will impose the penalty provided for by subparagraph (4) of this paragraph with respect to any subsequent actions taken under exchange agreements before a report is made to the Administrator.

(4) If a person submits an erroneous report under paragraph (a) of this section or fails to file such a report on time, the Administrator shall, as provided in this section, reduce a future allocation of imports to which the person would otherwise be entitled by 100 barrels or 1 percent of the allocation, whichever is the smaller quantity. If action is taken under an exchange agreement before a report of the agreement or of a change in the agreement is made to the Administrator, the Administrator shall, as provided in this section, reduce a future allocation of imports to which the holder of an allocation who made the exchange agreement would otherwise be entitled by 100 barrels or 1 percent, whichever is the smaller quantity.

2. A review of the applications for allocations of imports of crude oil and unfinished oils submitted to the Oil Import Administration by persons with petrochemical plants has disclosed the fact that some applicants have reported certain olefinic and paraffinic liquids and gases as petrochemical plant inputs while others have not. Uniformity in respect of petrochemical plants inputs is essential to assure equal treatment under the allocation system. In order to assure uniformity, the definition of petrochemical plant inputs should deal specifically with this category of materials. Accordingly, it is proposed to add a new subparagraph (iii) to subparagraph (1) of paragraph (o) of section 22 of Oil Import Regulation 1 (Revision 5) and to make conforming amendments in the remainder of that paragraph and in paragraph (p). The addition of a new subparagraph (v) to subparagraph (2) of paragraph (o) of section 22 is proposed. This provision would make it clear that ASTM standard grade aromatics cannot become qualified petrochemical plant inputs by intentional, unintentional, or in process adulteration.

If amended as proposed, paragraphs (o) and (p) would read as follows:

Sec. 22 Definitions.

* * * * *

(o) "Petrochemical plant inputs" means feedstocks charged to a petrochemical plant

(1) And include only:

(i) Crude oil;

(ii) Unfinished oils (except those unfinished oils specifically excluded in subparagraph (2) of this paragraph) produced in Districts I–IV and District V, and unfinished oils imported pursuant to an allocation; and

(iii) Liquids or gases (whether or not such liquids or gases are unfinished oils) which are comprised entirely of mono-olefins or of paraffins or a mixture thereof (exclusive of mono-olefins and paraffins which are not composed solely of carbon and hydrogen or which are cyclic compounds), which are within the C_5–C_{15} range, and which are produced from crude oil or natural gas.

(2) But do not include:

(i) Unfinished oils or the materials described in subdivision (iii) of subparagraph (1) of this paragraph which are produced in a petrochemical plant in the manufacture of petrochemicals and subsequently charged to a unit which is a part of the same petrochemical plant in which they were produced or to any other petrochemical plant which is owned or controlled by the same person who claims the initial petrochemical plant inputs from which the unfinished oils or materials described in subdivision (iii) of subparagraph (1) of this paragraph are derived;

(ii) Crude oil and unfinished oils which are imported into the United States by pipeline, rail, or other means of overland transportation from the country where they were produced, which country in the case of unfinished oils produced from crude oil is also the country of production of the crude oil from which the unfinished oils were processed or manufactured;

(iii) Unfinished oils or materials described in subdivision (iii) of subparagraph (1) of this paragraph which are obtained by transactions such as sales, purchases, or exchanges which are designed to avoid the exclusion specified in subdivision (i) of this subparagraph (2); and

(iv) Any of the materials described in subdivision (iii) of subparagraph (1) of this paragraph which are imported or shipped into the United States,

(v) Benzene or toluene or any xylene derived from crude oil which met the distillation specification of the ASTM standard specifications for that chemical but which subsequently has been recycled and mixed with other hydrocarbons, commingled, or purposely debased.

(p) "Petrochemicals" means carbon or organic compounds (other than finished products, unfinished oils, methane, and materials described in subdivision (iii) of subparagraph (1) of paragraph (o) of this section) which are produced from petrochemical plant inputs by chemical reaction in a petrochemical plant.

3. Section 24 of Oil Import Regulation 1 (Revision 5) refers to ASTM "standards" in distinguishing between aromatics which are neither finished

products or unfinished oils and mixtures of aromatics which are finished products or unfinished oils. As the distinction actually rests on hydrocarbon mixture, the reference in section 24 to ASTM "standards" is imprecise. Accordingly, it is proposed to amend section 24 to read as follows:

Sec. 24 Aromatics.

Benzene or toluene or any xylene derived from crude oil which meets the distillation specification of the ASTM standard specifications for that chemical is neither a finished product nor an unfinished oil. However, a mixture of hydrocarbons derived from crude oil which contains benzene, toluene, or xylenes but does not meet the distillation specification of the ASTM standard specifications for any of these chemicals is either a finished product or an unfinished oil.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit comments, suggestions, or objections (7 copies) with respect to the proposal to the Administrator, Oil Import Administration, Washington, D.C. 20240 by not later than the close of business on December 9, 1968.

ELMER L. HOEHN,
Administrator.

NOVEMBER 22, 1968.

[F.R. Doc. 68-14214; Filed, Nov. 25, 1968; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Exchange Authority

[17 CFR Part 1]

GENERAL REGULATIONS UNDER COMMODITY EXCHANGE ACT

Registration of Futures Commission Merchants and Floor Brokers; and Minimum Financial Requirements

Notice is hereby given, in accordance with the Administrative Procedure Provisions of 5 U.S.C., section 553, that the Secretary of Agriculture pursuant to the provisions of sections 4f and 8a of the Commodity Exchange Act (7 U.S.C. 6f and 12a, as amended by Public Law 90-258 is considering amending the general regulations under the Act by revising § 1.10 and promulgating a new § 1.17 to read as follows:

§ 1.10 Applications for registration and financial reports.

(a) Application for registration as futures commission merchant shall be made on Form 1-R. Application for registration as floor broker shall be made on Form 2-R. Each application shall be executed and filed in accordance with the instructions accompanying the prescribed form.

(b) Every person who files an application for registration as futures commission merchant, and who is not so registered at the time of such filing, shall, concurrently with the filing of such application, file on Form 1-FR a report of the applicant's financial condition as of a date not more than 3 months prior to the date on which such report is filed. Each such financial report shall be executed in accordance with the instructions accompanying the prescribed form.

(c) Every person registered as futures commission merchant under the act shall file on Form 1-FR a report of his financial condition as of each June 30 and each December 31, unless the registrant's records are kept on a fiscal year basis, in which case he shall file on Form 1-FR such a report as of the midpoint and the end of each fiscal year. Each such report shall be executed and filed in accordance with the instructions accompanying the prescribed form, and shall be filed not more than 3 months after the date as of which it reports the registrant's financial condition.

(d) The provisions of paragraph (c) of this section shall not apply to any person registered as futures commission merchant who is a member of a contract market and conforms to minimum financial standards and related reporting requirements set by such contract market in its bylaws, rules, regulations or resolutions and approved by the Secretary of Agriculture as adequate to effectuate the purposes of section 4f(2) of the act: *Provided, however,* That each such registrant shall promptly file with the Commodity Exchange Authority a true and exact copy of each financial report which he files with such contract market.

(e) The provisions of paragraph (b) of this section shall not apply to any applicant for registration as futures commission merchant to operate only in accordance with the provisions of § 1.31a, and the provisions of paragraph (c) of this section shall not apply to any registered futures commission merchant who in accordance with his latest application for registration is authorized to operate only in accordance with the provisions of § 1.31a and who in fact at all times so operates. However, every such person, shall, concurrently with the filing of the application for registration and each application for re-registration as futures commission merchant, file with the Commodity Exchange Authority a report of his financial condition prepared in accordance with generally accepted accounting principles. Each such financial report shall show the applicant's financial condition as of a date not more than 3 months prior to the date on which it is filed with the Commodity Exchange Authority.

(f) Every person registered as futures commission merchant under the act, except those registrants referred to in paragraph (e) of this section, shall prepare a written computation of his net worth at least once each month and retain it in accordance with § 1.31. Whenever any such computation shows, or any registrant knows or has reason to believe, that the registrant's net worth has declined 20 percent or more from his net worth as shown in the report of his financial condition, referred to in this section, which he most recently filed with the Commodity Exchange Authority, or whenever any registrant knows or has reason to believe that he is not in compliance with the requirements prescribed in § 1.17, such registrant shall immediately notify the Commodity Exchange Authority thereof.

§ 1.17 Minimum financial requirements.

(a) Except as provided in paragraphs (b) and (c) of this section, no person applying for registration as futures commission merchant shall be so registered unless he has adjusted working capital equal to or in excess of whichever of the following is greater: (1) $10,000, or (2) the sum of the safety factors hereinafter prescribed in this section with respect to both proprietary accounts and customers' accounts plus 5 percent of the applicant's aggregate indebtedness; and each person registered as futures commission merchant shall at all times continue to meet such financial requirements.

(b) The requirements of paragraph (a) of this section shall not be applicable if the applicant for registration or registrant is a member of a contract market and conforms to minimum financial standards and related reporting requirements set by such contract market in its bylaws, rules, regulations or resolutions and approved by the Secretary of Agriculture as adequate to effectuate the purposes of paragraph (2) of section 4f of the act.

(c) There are no minimum financial requirements prescribed in the regulations in this part for any applicant for registration as futures commission merchant to operate only in accordance with the provisions of § 1.31a, or for any registrant who in accordance with his application for registration is authorized to operate only in accordance with that section and who in fact at all times so operates.

(d) Definitions: For the purposes of this section:

(1) The term "working capital" means the amount by which current assets exceed current liabilities.

(2) The term "current assets" means cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next twelve months in the normal course of operation of the principal business of the applicant or registrant, and which are available for and intended for payment of current liabilities.

(i) The term "current assets" excludes, among other things:

(*a*) Customers' regulated and nonregulated commodity futures accounts that liquidate to an unsecured deficit or contain unsecured debit balances and which accounts have been in such a condition for more than 30 consecutive days;

(*b*) Crop loans (loans made to farmers for the purpose of financing their crops or farm operations) which are not (*1*) due and collectable within 9 months after the respective dates of making of

such loans, and (2) evidenced by legally-enforceable written instruments in the possession of the registrant or applicant;

(c) All other unsecured receivables that are not due and collectable within 6 months from the respective dates of their inception;

(d) Exchange memberships, clearing house stocks and guaranty funds;

(e) Unsecured advances and loans to any business affiliate that directly or indirectly controls, is controlled by, or is under common control with, the applicant or registrant;

(f) Unrealized commissions on open futures contracts;

(g) Cash and claims to cash which are restricted as to withdrawal, such as customers' segregated funds;

(h) Land, buildings, furniture and fixtures, improvements to real property and other fixed assets;

(i) Prepaid expenses and deferred charges;

(j) Unsecured loans and advances to partners, officers and employees of the applicant or registrant;

(k) Unsecured debit balances and unsecured deficits in accounts owned by the applicant or registrant or in accounts of partners, officers and employees of the applicant or registrant;

(l) Securities without a ready market;

(3) The term "current liabilities" means obligations that are or will become due and payable in the next 12 months, or the liquidation of which is reasonably expected to require the use of existing resources classifiable as current assets or the creation of other current liabilities.

(4) The term "adjusted working capital" means working capital less:

(i) Five percent of all unsecured receivables used by the applicant or registrant in computing his working capital;

(ii) The amount by which any advances paid by the applicant or registrant on cash commodity contracts and used in computing his working capital, exceeds 90 percent of the market value of the commodities covered by such contracts;

(iii) In the case of cash commodity inventories that are hedged by bona fide hedging positions in the futures market as defined in section 4a(3) of the act, the amount by which the value of such inventories used by the applicant or registrant in computing his working capital, exceeds 95 percent of the market value of such inventories;

(iv) In the case of cash commodity inventories that are not hedged as specified in subdivision (iii) of this subparagraph, the amount by which the value of such inventories used by the applicant or registrant in computing his working capital, exceeds 80 percent of the market value of such inventories: *Provided, however*, With respect to those units of inventory that are committed to fixed price sales, there shall be no deduction from the value of such units of inventory used by the applicant or registrant in computing his working capital if the value so used does not exceed the committed sales price;

(v) The amount by which the value of securities and obligations used by the applicant or registrant in computing his working capital, exceeds:

(a) In the case of preferred stocks, 80 percent of the market value thereof;

(b) In the case of common stocks, 70 percent of the market value thereof;

(c) In the case of commercial bonds, 90 percent of the market value thereof;

(d) In the case of obligations of, or guaranteed by, the United States, and of general obligations of any State, or of any political subdivision thereof, 100 percent of the market value thereof;

(5) The term "aggregate indebtedness" means that portion of the total liabilities of an applicant or registrant which is not adequately collateralized, but excluding:

(i) Advances received by the applicant or registrant against bills of lading issued in connection with the shipment of commodities sold by the applicant or registrant;

(ii) Equities in partners' and officers' commodity future accounts;

(iii) Equities in customers' commodity futures accounts segregated in accordance with the act and regulations;

(6) Liabilities shall be deemed to be "adequately collateralized" within the meaning of this section, when, pursuant to a legally enforceable written instrument, such liabilities are secured by identified assets that are otherwise unencumbered and the market value of which exceeds the amount of such liabilities by 10 percent or more.

(e) In the case of open futures contracts held in customers' accounts carried by the applicant or registrant, the safety factor shall be one-half of 1 percent of the market value of the greater of either the total long or total short futures contracts in each commodity (regulated, nonregulated and foreign) in all such accounts: *Provided, however,* (1) That such safety factor shall not apply to any spread or straddle held for the same account in the same commodity, on the same market, in the same crop year, and (2) that in the case of any inter-market or inter-crop year spread or straddle, or any inter-market and inter-crop year spread or straddle, held for the same account in the same commodity, the safety factor shall be one-fourth of 1 percent of the market value of that side of each such spread or straddle having the greater market value.

(f) In the case of open futures contracts held in proprietary accounts carried by the applicant or registrant, the safety factor shall be 10 percent of the market value of the greater of either the total long or total short futures contracts (regulated, nonregulated and foreign) in each commodity in all such accounts: *Provided, however,* (1) That such safety factor shall not apply to any spread or straddle held for the same account in the same commodity, on the same market, in the same crop year, or to any contract representing a bona fide hedging transaction as defined in section 4a(3) of the act, or to any contract resulting from a "changer trade" made in accordance with the rules of a contract market which have been submitted to and not disapproved by the Secretary of Agriculture, and (2) that in the case of any inter-market or inter-crop year spread or straddle, or any inter-market and inter-crop year spread or straddle, held for the same account in the same commodity, the safety factor shall be 5 percent of the market value of that side of each such spread or straddle having the greater market value. The term "proprietary account" within the meaning of this section shall include any account directly or indirectly owned or controlled by the applicant or registrant or any employee thereof, or by any partner or officer of the applicant or registrant, if a partnership, or by any officer, director or owner of 10 percent or more of the capital stock of the applicant or registrant, if a corportation, or by any person who alone or in concert with any other person or persons controls the applicant or registrant.

Notice is hereby given that an oral public hearing on the foregoing proposals will be held commencing at 10 a.m., local time, on December 19, 1968, in Room 218–A of the Administration Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C., at which all interested persons will be given adequate opportunity to express their views. The Presiding Officer at the hearing will be a hearing examiner from the Office of Hearing Examiners of the Department designated for that purpose.

Any interested person may present any views, facts, or arguments he wishes to offer at the hearing. It will facilitate the hearing if persons who wish to testify at it will notify the Administrator of the Commodity Exchange Authority as soon as possible to that effect, stating how much time they would like to have to present their testimony. However, any person who wishes to testify at the hearing will be afforded an opportunity to do so, whether he has given such advance notice or not. The hearing will be open to the public. A stenographic transcript will be made of the hearing.

Any person who wishes, in addition to or in lieu of testimony at the oral hearing, to submit written data, views, or arguments on the proposed revision of § 1.10 and promulgation of § 1.17, may do so by filing them with the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, on or before the date of the hearing. All written submissions made pursuant to this notice, and the transcript of the above hearing, will be available for public inspection in the office of the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, between the hours of 9 a.m. and 5:30 p.m. on any business day.

After the hearing, the Department will evaluate all relevant material presented at the hearing, submitted in writing, or otherwise in its possession, and will determine what action should be taken

with respect to the proposed revision of § 1.10 and promulgation of § 1.17.

Done at Washington, D.C., this 21st day of November 1968.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[F.R. Doc. 68-14192; Filed, Nov. 25, 1968; 8:48 a.m.]

Consumer and Marketing Service

[7 CFR Part 1007]

[Docket No. AO-366]

MILK IN GEORGIA MARKETING AREA

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

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

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

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Atlanta, Ga., on June 11–14, 1968, pursuant to notice thereof which was issued May 15, 1968 (33 F.R. 7444).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulations;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

This decision deals with all issues considered at the hearing except the classification and pricing of skim milk and butterfat in "filled milk" and "imitation milk". This issue is reserved for 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. *Character of commerce.* The handling of milk in the proposed marketing area is in the current of interstate commerce and directly burdens, obstructs and affects interstate commerce in milk and milk products.

The marketing area specified in the proposed order, hereinafter referred to as the "Georgia marketing area", includes all but eight (Catoosa, Chattooga, Dade, Fannin, Murray, Rabun, Walker, and Whitfield) of the 159 counties in the State of Georgia.

Fluid milk products are distributed in the proposed marketing area from at least 13 out-of-State plants, located in Alabama, Tennessee, South Carolina, and Florida. In 1967, fluid milk sales in Georgia from out-of-State plants totaled 37 million pounds. Also, six plants in the proposed marketing area distribute milk in Alabama and South Carolina.

Eleven Alabama dairymen and nine South Carolina dairymen ship milk to Georgia plants in the proposed marketing area. Seventeen Georgia dairy farmers supply out-of-State plants.

The production of milk by producers regularly associated with the proposed marketing area is insufficient to meet handlers' demands for milk for fluid use and for the manufacture of milk products such as cottage cheese and ice cream. In 1967, 6.7 million pounds of bulk milk and cream and 2.4 million pounds of nonfat dry milk and buttermilk powder were obtained by Georgia handlers from out-of-State sources. Such shipments were received throughout the year from 10 different States, the principal sources being Alabama, Tennessee, Virginia, and Wisconsin.

Since there are limited facilities in Georgia for manufacturing products such as butter and cheese, these items must be supplied primarily from sources outside the State. Ice cream and ice cream mix made in about 20 out-of-State plants are sold in Georgia. Also, because of the limited manufacturing facilities in Georgia, milk excess to the market's needs is at times disposed of to manufacturing plants in other States.

2. *Need for an order.* Marketing conditions in the proposed Georgia marketing area justify the issuance of a marketing agreement and order.

There is no overall plan whereby dairy farmers regularly supplying milk for distribution in the proposed marketing area are assured of payment for their milk in accordance with its use. The absence of such a plan has resulted in disorderly marketing conditions that can be remedied best by the application of Federal order regulation to this market. A classified pricing plan based on the audited utilization of handlers would provide a uniform system of minimum prices to handlers for milk purchased from producers and a fair division among all producers of the proceeds from the sale of their milk.

Three dairy farmer organizations are the proponents seeking Federal order regulation for Georgia. Georgia Milk Producers is an organization (not a cooperative association) in which all Grade A dairy farmers in Georgia automatically have membership. About 1,330 of its approximately 1,440 members in December 1967 would be producers under the proposed order; most of the others are producers under the Chattanooga Federal milk order.

Georgia Association of Dairy Cooperatives is a federation of eight cooperatives, each of which operates a distributing plant; one cooperative also operates a supply plant. The cooperatives in the federation represent about 630 producers.

Georgia Milk Producers Cooperative Association, a bargaining cooperative with about 610 members, was not marketing the milk of its members at the time of the hearing. It contemplates activating the marketing agreements with its members at an early date in order to strengthen their bargaining position in the face of deteriorating marketing conditions.

Georgia Association of Dairy Cooperatives and Georgia Milk Producers Cooperative Association represent about 85 percent of the estimated 1,465 dairymen, located both within and outside Georgia, whose milk would be priced under the proposed order. Milk deliveries by Georgia producers to all plants in Georgia (including plants regulated by the Chattanooga order and producer-distributor plants) averaged 79 million pounds monthly in 1967. Comparable data on the amount of milk delivered by producers to the three out-of-State plants (two in South Carolina and one in Alabama) that would be regulated are not available in the record.

Of the 41 distributing plants expected to be regulated under the proposed order, 37 are supplied by members of the cooperatives. Members of the bargaining cooperative deliver milk to 28 of these plants. The eight distributing plants of the operating cooperatives are supplied by their own members. One of the operating cooperatives also supplies milk to several proprietary handlers. Since the number of their members is approximately 40 percent of the total producers supplying the market, the distribution of the operating cooperatives represents a substantial portion of the total fluid milk sales in the Georgia market.

The area herein proposed to be regulated has been regulated by the Georgia Milk Commission, which fixed producer prices and resale prices for milk. In October 1967, a ruling of the Supreme Court of Georgia declared the price-fixing authority of the Commission unconstitutional. Since then, no regulatory plan for milk has been applicable in the proposed marketing area.

Although the Commission operated a classified pricing plan for producers, the plan's effectiveness in recent years was virtually nullified when handlers were

allowed to contract with producers on terms of sale. The prices applicable under these contracts, which covered a substantial amount of the milk marketed in Georgia, were in lieu of the Commission's stated prices.

Since the termination in 1967 of the State's regulation of producer and resale prices, producers have become increasingly apprehensive about the deteriorating marketing conditions with which they are being faced. The proponent producer organizations contend that only a device such as a Federal milk order can provide the marketing environment in which producers may obtain the full economic value of their milk under orderly marketing conditions.

The purchasing arrangements which many proprietary handlers have with their producers are resulting in decreasing returns to these producers. The handler resale practices made possible by such arrangements are in turn exerting considerable downward pressures on the prices which the operating cooperatives are able to return to their members.

Under their contracts with producers, some handlers base their Class I prices on various percentages of the returns from their wholesale and retail sales of packaged milk. For example, one major handler's Class I price is based on 54 percent of his receipts from retail sales and 55.4 percent of his receipts from wholesale sales. Although the percentages may vary slightly among handlers, a principal feature of their purchasing arrangements is that the producer price is based on the handler's net receipts from his retail and wholesale sales.

With the regulation of resale prices no longer applicable, handlers are offering stores substantial discounts—as much as 18 percent of the Commission's previous Class I price was indicated. Under the producer contracts, the lower resale prices are consequently reflected back to producers through lower prices for their deliveries. Moreover, with no fixed resale prices, any price which the handler unilaterally considers competitive may be used as a price on which to base discounts.

In order for the cooperatives operating distributing plants to remain competitive in the resale market, they must meet the discounts offered stores by proprietary handlers. Representatives of these cooperatives testified that the lower resale prices have resulted in lower returns to their members.

Producers in these circumstances have no assurance of the prices that they may expect to receive for their milk. They cannot plan their future production program with the certainty of marketing conditions needed for sound management decisions. This could tend to discourage the continuation of the necessary production resources and thereby threaten the maintenance of an adequate supply of pure and wholesome milk for the Georgia market.

The Class I price commonly referred to by handlers is not meaningful in ascertaining the prices paid by handlers for their Class I utilizations. Handlers pay less than the Class I price for milk disposed of in a number of Class I utilization categories. The stated Class I price has, in effect, become only a figure from which to subtract various amounts in determining what prices handlers will pay producers each month. Moreover, these prices are even less meaningful when it is recognized that the handlers' utilizations are not verified by audit.

The Class I price often referred to at the hearing was the Milk Commission's announced Class I price prevailing at the time price-fixing was abolished in October 1967. This price was $7.39 for milk of 4 percent butterfat content (the test at which prices have been quoted in this market). The butterfat differential was 8 cents for each one-tenth of 1 percent variation in butterfat above or below 4 percent.

If $7.39 is now paid by handlers for any portion of producers' deliveries, it is not apparently applicable to significant quantities of milk. The $7.39 price is used by handlers as a bench mark or basic price from which to make deductions in arriving at the prices they will pay producers for milk in their various Class I utilization categories.

Under the Commission, producers received $1.75 below the basic Class I price for milk disposed of in the form of buttermilk and skim milk. This practice of pricing milk in these Class I utilizations at a differential below a basic Class I price still prevails in the market.

Class I sales to schools and hospitals customarily return less to producers than the basic Class I price.

Some handlers in the market pay their producers at a flat price, irrespective of utilization. One handler, whose utilization is substantially all Class I, pays $6.40 per hundredweight to his producers for milk of 4 percent butterfat content.

A significant factor that results in lower returns to producers is the practice of paying substantially less than the stated Class I price (the Commission's announced price for military milk of 4 percent butterfat was $6.30) for Class I sales to military installations. Military sales are an important segment of the milk distribution business of handlers that would be regulated by the order. At least 10 military installations in Georgia purchase fluid milk on a bid basis and Georgia handlers occasionally have military sales in other States.

It is customary for handlers seeking military sales to negotiate with their producers on a price for milk that would be sold in this manner. The milk supply which handlers have available for such sales is normally additional to the supply regularly required for their other fluid sales. Thus, milk not sold to military bases usually must be disposed of to manufacturing outlets. Although producers are of course interested in obtaining as high a price as possible, they nevertheless are under pressure to settle on any price over the manufacturing price that will secure the contract for the handler.

No uniform pricing prevails on milk in the market that is not needed for fluid uses. Returns to producers for such milk often reflect whatever price handlers may obtain from manufacturing outlets for the milk less their transportation and handling charges. Also, the price for milk transferred between plants may bear no relationship to the ultimate use of such milk.

The utilizations on which producers in the market are paid are not audited or otherwise verified. The adoption of classified pricing with an auditing program would contribute substantially to the maintenance of stable and orderly marketing conditions in the Georgia market. This would benefit not only producers but handlers as well. For example, handlers would be assured that their competitors who are regulated under the order are purchasing milk on the same audited, classified price basis as they are.

The disorderly marketing conditions experienced by producers regularly supplying the Georgia market are attributable in part to the lack of any plan for sharing among all such producers the proceeds from the sale of their milk. To a growing degree, milk in Georgia is being distributed through larger outlets such as chain stores and military installations. There is considerable competition among plants to supply these outlets and such sales often shift from one plant to another. The failure of a handler to obtain contract renewals may cause a substantial decrease in the returns he will be able to make to his producers, while returns to other producers in the market increase.

Also, a certain amount of reserve milk in excess of the actual fluid sales is necessary to assure an adequate supply of milk at all times. Fluctuations brought on by the seasonal nature of milk production and by changes in demand, such as are associated with the opening and closing of schools and holidays, require that some of the Grade A milk produced for the market be disposed of in manufacturing channels at certain times of the year. Milk disposed of to manufacturing outlets returns considerably less than that marketed for fluid use. Thus, a well defined and uniformly applied plan of use classification, with the proper pricing of milk in such uses, is necessary to prevent excess milk from depressing the market price of all Grade A milk.

To be successful, the classification and payment for milk in accordance with its use requires the participation of all those engaged in marketing milk in this market. Orderly marketing of the milk produced for fluid consumption requires uniformity of pay prices by handlers and a means whereby both the higher returns from the fluid market and the lower returns resulting from surplus milk may be shared equitably by all producers.

Producers regularly supplying the Georgia market have no assurance that their milk will not be down-allocated or replaced by their buying handlers with the surplus milk that may become available from time to time on an opportunity basis. Surplus supplies from nearby locations in South Carolina, North Carolina, and Alabama can be a threat in this

regard. Although these States fix minimum prices that handlers must pay producers according to the utilization of their milk, such prices do not apply to out-of-State sales. This provides an incentive for handlers in these States to dispose of unneeded supplies at any price above that which they would realize in disposing of such supplies for manufacturing purposes.

The disposition of such milk in the proposed marketing area for Class I use, even for short periods, could have a deteriorating effect on the bargaining position of producers regularly supplying the market. The uncertainty among producers, caused by the threat of losing their market to such surplus supplies, tends to create instability in the market and to discourage rather than encourage the maintenance of an adequate supply of pure and wholesome milk for the market.

The problems of unstable marketing encountered by producers in the proposed marketing area are not uncommon in fluid milk markets where there is no overall program for effectively regulating producer milk supplies. Production of high-quality milk in Georgia requires a substantial investment. The present unstable marketing conditions could discourage continuation of the necessary production resources and thereby seriously threaten the maintenance of an adequate supply of milk for the market. A Federal order establishing class prices at reasonable levels with a marketwide pool for distribution of returns to producers would provide the needed market stability.

There is now a lack of detailed market information relative to the procurement and disposition of milk throughout the marketing area. Such information is essential to orderly marketing. The institution of Federal milk order regulation in the Georgia market would provide the basis for complete information on receipts and utilization of milk.

A marketing agreement and order for the Georgia marketing area as herein proposed would contribute substantially to the improvement of many of the conditions complained of by producers and would tend to effectuate the declared policy of the Act. The procedures required by the Agricultural Marketing Agreement Act would afford all interested parties the opportunity to take part in determining through public hearing what assistance the marketing system requires in order to insure an orderly market.

3(a) *Scope of regulation.* It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specified definitions to describe the area involved, and to describe the category of persons, plants, and milk products to which the applicable provisions of the order relate.

Marketing area. The marketing area for the proposed order should include 151 of the 159 counties in Georgia. Of the eight counties in the State not in the proposed marketing area, seven are in the Chattanooga Federal order marketing area. These are Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield Counties. The eighth county, Rabun, is in the northeastern corner of the State.

The 1960 census population of the 151-county area proposed to be regulated was 3,774,000. Much of the area is predominantly rural; 114 counties had less than 20,000 inhabitants in 1960. Only five counties had 100,000 or more inhabitants at that time. Principal cities in the proposed marketing area (and their 1960 population) include Atlanta (487,000), Savannah (149,000), Columbus (117,000), Augusta (71,000), Macon (70,000), and Albany (56,000).

The marketing area specified herein, plus Rabun County, was proposed by the producer associations and by proprietary handlers. The proponent handlers and operating cooperatives together operate 22 of the 41 distributing plants expected to be regulated by the order. However, one proprietary handler opposed the inclusion of Rabun County; another opposed the inclusion of Richmond, McDuffie, Columbia, and Burke Counties; and a third handler opposed including the counties of Floyd, Bartow, Gordon, Polk, and Haralson in the marketing area.

Until recently, the proposed marketing area was regulated by the Georgia Milk Commission. During the Commission's approximately 30-year existence, handlers and producers became accustomed to dealing with their marketing problems on a statewide basis. The producer organizations requesting an order represent all the Grade A dairy farmers in Georgia. Both handlers and producers now stress that orderly marketing in Georgia can be achieved best by applying Federal regulation to the entire State.

The disorderly marketing conditions complained of by producers are prevalent throughout the State. Therefore, in order to provide the needed market stability for such producers, it is necessary that the marketing area for the proposed order encompass the principal sales areas of the handlers being supplied by these producers.

The distribution of milk in Georgia is predominantly from plants located in the major metropolitan areas in the State. The distribution from these plants covers a wide geographical area and there is substantial overlapping of their sales areas. Several plants have sales in as many as 40 to 50 counties. The distribution routes from Atlanta plants, for example, extend northward to the Tennessee-Georgia State line and to the east and south where they overlap with sales routes of plants at cities as distant as Washington, Macon, and Albany. These distant plants similarly have overlapping distribution areas with other plants in the outlying areas from Atlanta.

Under the Milk Commission's rules, handlers were generally restricted in their sales to prescribed areas. Now, however, handlers are extending their distribution into additional areas. This may be expected to continue in view of better highways, improved transportation and refrigeration facilities, greater use of single service containers, and the increasingly important supermarket business in the various populated centers.

Because of these factors, a marketing area of lesser size than that specified herein would be inappropriate for the proposed order.

The route distribution of the Georgia plants that would be regulated is confined largely to the proposed marketing area; only seven have sales outside the proposed area. The out-of-area disposition of two plants in Columbus, which borders on Alabama, is 11 percent and 15 percent, respectively, of their total fluid sales. A plant at Augusta, which borders on South Carolina, has 34 percent of its sales outside the proposed marketing area. Four other Georgia plants have 10 percent or less of their sales outside the proposed marketing area.

A handler who operates a distributing plant at Augusta proposed that the Georgia counties of Richmond, McDuffie, Columbia, and Burke not be included in the marketing area. Inclusion of these counties would result in the full regulation of this plant. In supporting his request, the handler pointed out that the Department had denied consideration at the hearing of a proposal to include in the proposed Georgia marketing area the South Carolina counties of Aiken and Edgefield, in which counties he has fluid sales. Although he contended that regulation of the plant would place him at a competitive disadvantage on his sales in South Carolina, the handler did not show that supplies are available to his South Carolina competitors at prices less than he would be required to pay under the proposed order.

Of the total fluid milk sales from the Augusta plant, 10 percent is made in Aiken and Edgefield Counties and 66 percent in Georgia, mostly in the four counties the handler wants excluded. Sales are also made in the four-county area from another plant in Augusta and from plants at Athens and Washington, Ga. The latter two plants, at least, would be regulated by the order even if the four counties were not included in the marketing area.

These four counties are an integral part of the sales areas of these four handlers. Producers who supply these handlers stressed the urgent need for order regulation. The disorderly marketing conditions now existing throughout Georgia are no elss significant for producers supplying milk sold in these counties than for producers whose milk is sold elsewhere in the proposed marketing area.

A handler at Rome, in Floyd County, Ga., requested that the Georgia counties of Floyd, Bartow, Gordon, Polk, and Haralson not be a part of the marketing area. If these counties were left out of the marketing area, his plant would not be subject to regulation under the proposed order. He contended that because of his proximity to Chattanooga his plant should be regulated by the Chattanooga order instead of by the proposed Georgia order. Rome is equidistant from Chattanooga and Atlanta.

On the basis of the present sales patterns, the five-county area is an integral part of the proposed Georgia marketing area. Four Atlanta handlers with route disposition in these counties would be regulated under the proposed order even if the five counties were not included in the proposed marketing area. Only one Chattanooga order handler has Class I sales in this area. Of the Rome handler's total fluid sales, 93 percent are in the five-county area; the remainder are in the Chattanooga marketing area. About 70 percent of the handler's sales are in Floyd County where he competes primarily with handlers who would be regulated under the Georgia order. It is appropriate, therefore, that these five counties be a part of the Georgia marketing area.

A handler who has sales in Rabun County from both a plant in Atlanta and one in North Carolina requested that the county not be a part of the marketing area. The sales from the Atlanta plant, which would be regulated under the Georgia order on the basis of other sales in the proposed marketing area, are 0.1 percent of the plant's total fluid milk distribution. The only other sales in Rabun County, which is basically rural (1960 population—7,500), are by a North Carolina handler who also requested that the county be excluded from the marketing area. If Rabun County were included in the marketing area, the two North Carolina plants would be partially regulated under the proposed order on the basis of the distribution in this county.

Inclusion of Rabun County in the proposed marketing area is not necessary to assure orderly marketing for producers in Georgia requesting the order. The Atlanta plant would still be fully regulated with its producers sharing in the Class I sales in the market. The proposed inclusion of Rabun County in the Georgia marketing area is denied.

In the course of the operation of the order, the question may arise as to whether waterfront facilities and any governmental establishments within the boundaries of the designated marketing area are considered as within the marketing area. The handlers' proposal that they be a part of the marketing area should be adopted since they constitute regular outlets for milk by handlers who would be regulated under the order. No evidence was presented at the hearing which would justify their exemption. So that there will be no doubt as to the meaning or the intent of the application of the marketing area definition in the proposed order, it should be clear that all piers, docks, and wharves connected with any of the territory included in the marketing area shall also be a part of the marketing area. Also, all territory that is occupied by a government (municipal, State, or Federal) reservation, installation, institution, or other establishment shall be a part of the marketing area if any part of such territory is within the designated geographical limits of the marketing area.

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 may choose 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.

Definition of plants. Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the fluid needs of the order market and those plants which do not serve the market in a way, or to a degree, that warrants their sharing (by being included in the market pool) in the market average utilization of Class I milk. Such distinction is necessary; otherwise, the proceeds of the higher Class I price would be dissipated by including in the market pool additional quantities of milk which were acquired by handlers primarily for manufacturing purposes. Such dissipated proceeds could accrue to the benefit of producers supplying milk to handlers who do not regularly or dependably furnish the fluid milk needs of consumers in the marketing area. Unless adequate standards of marketing performance are provided to determine which milk and plants will participate fully in the market pool funds, the uniform price of the market could be depressed to the point that it would not serve its function of attracting an adequate supply of milk for the fluid needs of the market without a Class I price higher than otherwise would be necessary.

Since Class I price increases are generally passed on to the public, such price increases necessitated solely because of inadequate performance standards for regulation would be contrary to the public interest. Therefore, in order to share in market pool funds, it is essential that plant operators perform marketing functions (i.e., deliver milk to market in specified amounts or proportions) which contribute to providing adequate and dependable market supplies. The marketing performance standards are essential provisions of a milk order if it is to attain the statutory purpose of assuring adequate supplies of milk in the most economical manner and in a way that best serves the public interest. The marketing performance standards also minimize the effects of regulation on handlers who have only a minor proportion of their distribution in the regulated market. They do this by exempting such handlers from full regulation.

Any plant, wherever located, may become a pool plant if it meets the marketing performance standards for regulation which are equal for all plants performing the same function. The performance standards for regulation of a plant are an essential means of assuring the regulated market of adequate and dependable supplies of milk. It should be emphasized that these performance standards do not impede the shipment of milk to regulated markets. Quite the contrary. Because they require milk to be shipped to the market in order to share in the market pool funds, they encourage milk shipments for Class I use which otherwise might not be made. This incentive is achieved by preventing plants which do not ship milk in accordance with the prescribed standards from sharing in the pool fund. The performance standards are thus the opposite of a barrier to the shipment of milk to the market.

Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards have been provided for them.

A "distributing plant" would be defined as a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and which has some route disposition in the marketing area during the month.

To qualify as a pool plant, a distributing plant would be required to meet performance standards as to the proportion of its supply used in route disposition, including such disposition in the marketing area. Thus, pool distributing plants would include only those plants primarily engaged in the distribution of fluid milk products. The plant's total route disposition, both inside and outside the marketing area, should be at least 50 percent of its receipts from all sources of fluid milk products that are approved by a duly constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk to a nonpool plant. The route disposition in the marketing area of such a plant should be at least 15 percent of its total Class I disposition.

A plant from which Class I milk is distributed regularly in the marketing area may under normal circumstances be expected to dispose of its milk in such a way as to exceed by a reasonable margin the minimum performance standards necessary to qualify as a pool plant.

About eight plants in the bordering States of Alabama, North Carolina, and South Carolina, which have some distribution in the proposed marketing area, are not expected to qualify for pooling status under the proposed order or any other Federal order. Less than 15 percent of their total Class I disposition is disposed of on routes in the marketing area; their major distribution is in areas that are unregulated by Federal orders. Also, there may be from time to time other plants supplying milk to the marketing area which would not qualify for pool status. Such plants should be required to file reports, make available their records for audit by the market administrator, and be subject to payment on terms hereinafter discussed if they are not fully subject to regulation under the order.

As an in-area route disposition requirement for pooling, producers proposed that a distributing plant's route disposition in the marketing area be not less than 10 percent of its total receipts. Handlers proposed that the minimum in-area route sales to qualify a distributing plant for pooling be 25 percent. Throughout the hearing, however, both producers and handlers emphasized that consideration in establishing the order's provisions must be given to the proximity of the adjacent Chattanooga order market. Under that order, a pool distributing plant must have Class I route sales in the marketing area of not less than 15 percent of its total Class I disposition, the same as herein proposed as a qualification for pooling.

Distribution is made on routes in the proposed marketing area by a number of handlers fully regulated by the Chattanooga order. Likewise, a number of plants that would be pool plants under the proposed order have route distribution in the Chattanooga marketing area. On the other hand, there is relatively little overlapping of sales areas of handlers who would be regulated by the proposed order and those regulated by Federal orders other than the Chattanooga order.

It is quite likely that a plant from which milk is distributed in two marketing areas would be a pool plant under one order in some months and in the second order in other months. This would occur, for example, when the greater quantity of monthly Class I distribution from the plant varies between the two marketing areas. A plant that qualifies as a pool plant under the two orders, as herein proposed, and as generally provided in Federal orders, would be pooled under the order in the marketing area of which its Class I distribution was greater during the month.

Because of the proximity of the marketing area of the proposed order with that of the Chattanooga order and the overlapping of sales areas of handlers under the two orders, it would be impracticable to have different standards for pooling distributing plants in the two orders. The in-area disposition requirement herein proposed has been determined to be an appropriate qualification for pooling in the Chattanooga order and can be expected to be an equally appropriate standard under the proposed order.

The 25-percent in-area factor proposed by handlers is substantially greater than that generally contained in the various orders. It was not shown that this larger than usual in-area sales requirement for pooling would accomplish anything different from that herein proposed or that it would better effectuate the intent of the Act than the 15 percent of a plant's Class I sales proposed herein as an in-area sales requirement.

The 10-percent factor proposed by producers as an in-area route disposition qualification for pooling is the percentage most frequently used for this purpose in Federal orders. This factor, however, would not be compatible with that provided in the adjacent Chattanooga order. There is greater competition for supplies and sales by handlers under the proposed order with Chattanooga order handlers than with handlers under any other order. It is appropriate, therefore, that the in-area factor to qualify for pooling under the proposed order be the same as that provided in the Chattanooga order. Moreover, under conditions in the proposed marketing area, the 10-percent factor proposed by producers would accomplish no purpose that would not appropriately be taken care of by the in-area qualification factor herein provided.

The principal purpose of a minimum in-area distribution 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 monthly Class I proceeds of the market. The pooling requirement that 15 percent of a plant's total Class I disposition be route disposition in the marketing area will not only provide a safeguard against such an exploitation of the pool but will also provide an appropriate measure of a plant's association with the market.

The 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 a fluid milk market has a reasonable opportunity to make a choice of full or partial regulation, whichever might better serve his interest.

The requirement that a distributing plant's total route disposition be at least 50 percent of its receipts was proposed by both producers and handlers. This minimum percentage of a plant's receipts that must be disposed of on routes to qualify a distributing plant for pooling is provided in most orders, including the Chattanooga order. In conjunction with the minimum in-area sales requirement herein provided, the provision that a distributing plant's route disposition be at least 50 percent of its receipts should be an appropriate factor under conditions in the proposed marketing area. Moreover, since the 50 percent factor is the same as that provided in Chattanooga and most other orders, it will facilitate the coordination in the marketing of milk from common supply areas.

Limited quantities (as provided in the attached order) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it is concluded that in present circumstances the application of "partial" regulation to plants having less association than required for marketwide pooling will not jeopardize marketing conditions within the regulated marketing area. Official notice was taken at the hearing of the Assistant Secretary's June 19, 1964, decision (29 F.R. 9002) supporting amendments to 76 orders, in which the matter of partial regulation was discussed. That decision, as it relates to an unregulated plant having some Class I distribution in the marketing area, is appropriate under current conditions in the proposed marketing area and is adopted in its entirety.

The operator of any partially regulated plant would be afforded the options of: (1) Paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant would not necessarily be priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting the operation of the order. They should be adopted in this order to complement the pooling requirements on fully regulated plants adopted herein.

"Supply plant" is the other plant category for which standards for pooling must be provided. A supply plant would be defined to mean a plant from which a fluid milk product acceptable to a duly constituted health authority for fluid consumption is shipped during the month to a pool distributing plant.

To qualify in any month for pool plant status, a supply plant should ship to pool distributing plants in the form of fluid milk products at least 50 percent of its receipts of milk from dairy farmers. A plant thus shipping the major portion of its receipts from dairy farmers to regulated distributing plants is making a substantial contribution towards providing

an adequate supply for the market and hence may reasonably be considered as an integral part of the fluid milk supply for the market.

A supply plant from which a proportionately lesser quantity of milk than herein provided is moved to pool distributing plants without otherwise having established a continuing association with the market should not, under present conditions, be considered as contributing sufficiently to the market supply to share in the pool funds.

At the present time, there is but one supply plant regularly serving the Georgia market. At irregular intervals, particularly when milk is short, supplemental supplies are received at pool distributing plants from supply plants that do not have a regular and continuing association with the market. Perhaps additional supply plants will become associated with the market in the future. Accordingly, provision should be made for such a supply plant to participate in the pool.

The demand for supply plant milk may vary seasonally and will be greatest during the season of low production. During the flush production months, milk received directly at distributing plants will generally be adequate for their needs and the demand for supply plant milk will be less. Requiring qualifying shipments to distributing plants during flush production months would result in the uneconomical movement of milk. During such months it would be more appropriate to leave the more distant milk at supply plants for manufacture in the distant area and to use local supplies for Class I. For this reason, the supply plant pooling requirements should not force milk to be transferred to distributing plants in the flush production months for manufacture in order to maintain the pool eligibility of a supply plant.

A supply plant that was a pool plant in each of the immediately preceding months of August through February should be a pool plant for the months of March through July irrespective of its shipments, unless the operator of such a plant elects nonpool status for the plant or the milk received at the plant does not continue to meet the requirements of a duly constituted health authority.

Providing pooling status to a plant in March through July on the basis of shipments in the preceding months will provide producer status to dairy farmers shipping to plants which are thus recognized as milk suppliers of the market. However, a plant should be permitted to withdraw from pool status at the operator's option in any of the months of March through July in which it has not otherwise qualified as a pool plant. In such case, it would not acquire pool status until it again met a minimum shipping requirement.

The pooling standards for supply plants herein proposed are the same as those provided in the Chattanooga order. They are reasonable and appropriate under current conditions in the proposed marketing area. In conjunction with other provisions in the proposed order, they will enable the dairy farmers associated with qualified supply plants to keep their milk pooled under the order throughout the year and will insure orderly and stable marketing conditions.

Some milk is distributed in the marketing area from plants which are fully subject to the classification and pricing provisions of other Federal milk orders. It is not necessary to extend full regulation under an order to such plants which dispose of a major portion of their receipts in another regulated market. To do so would subject such plants to duplicate regulation. However, in order that the market administrator may be fully apprised of the continuing status of such a plant, the operator thereof should, 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.

A definition of "nonpool plant" is provided to facilitate formulation of the various order provisions as they apply to such a plant. A nonpool plant would mean a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing, or bottling plant. Specific categories of nonpool plants would be defined as follows:

(1) "Other order plant" is a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act unless such plant is qualified as a pool plant under this order and a greater volume of fluid milk products is disposed of from such plant in this marketing area as route dispositions and to pool distributing plants than is so disposed of from such plant in the marketing area regulated pursuant to such other order;

(2) "Producer-handler plant" is a plant operated by a producer-handler as defined in any order (including this order) issued pursuant to the Act;

(3) "Exempt distributing plant" is a distributing plant operated by a governmental agency;

(4) "Partially regulated distributing plant" is a nonpool plant that is a distributing plant and is not an other order plant, a producer-handler plant or an exempt distributing plant; and

(5) "Unregulated supply plant" is a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

The University of Georgia maintains a dairy herd and processing plant in Athens. Producers proposed that this operation and similar operations operated by governmental agencies be designated as exempt distributing plants and be exempt from the provisions of the order.

The milk production and processing carried on at Athens are maintained in connection with the research and education functions of the University of Georgia. They are used and deemed necessary in connection with the various courses given and research done under the auspices of the University.

The extent to which other State educational institutions and mental and penal establishments within the proposed marketing area maintain herds and processing facilities to furnish milk to their residents was not presented on the record. However, it is not the practice of such institutions to sell milk in commercial channels in competition with proprietary handlers and producers.

It is not likely that the University of Georgia plant (or plants of governmental agencies similarly situated) will have production from its farm in excess of its usual requirements. Such excess production if it should develop could not be depended upon by Georgia handlers as a regular or supplemental supply during the periods when the market may be short of milk. It would clearly be surplus milk incidental to the operation of the University's milk plant. Accordingly, the order should provide that milk received at pool plants from such operations be allocated first to Class III. Any such milk allocated to Class I at a pool plant would be subject to a compensatory payment at the difference between the Class I and Class III prices.

The University of Georgia's milk plant (and similar institutions) may at times be required to purchase supplemental supplies from handlers who would be regulated by the proposed order. It may reasonably be expected that purchases in the form of fluid milk products would be needed and used for Class I purposes. The order should provide, therefore, that fluid milk products transferred or diverted from pool plants to exempt distributing plants be classified as Class I.

To qualify for pooling under the proposed order, milk must be received at a pool plant or diverted under specified conditions from a pool plant to a nonpool plant. Because an exempt distributing plant would be a nonpool plant, milk received at such plant from sources other than regulated plants and producers under the Georgia order would not be subject to the provisions of the order. Therefore, milk from producers' farms received at an exempt distributing plant could qualify as producer milk under the order only on the basis of its having been diverted from a pool plant. Otherwise, such milk would lose its producer milk status and would not be pooled or priced under the Georgia order.

Handler. The primary impact of regulation under an order is on handlers. A handler definition is necessary to identify those individuals from whom the market administrator must receive reports, or who have financial responsibility for payment for milk in accordance with its classified use value. As herein provided, the definition includes (a) persons operating pool plants; (b) a person operating a partially regulated distributing plant; (c) a cooperative association with respect to producer milk diverted from a pool plant to a nonpool plant for its account; (d) a cooperative

association with respect to its members' milk delivered in a tank truck under its control from the farm to a pool plant; (e) a person in his capacity as the operator of an other order plant; and (f) a producer-handler.

Designating as handlers the operators of the various types of plants that may be associated with the market is necessary so that the market administrator may require of them the reports to determine the regulatory status of the plants.

A number of cooperatives operate plants that would qualify as pool plants under the proposed order. These cooperatives and other producer associations in the market must assume the responsibility of balancing supplies among various handlers. Milk not needed for fluid uses generally can be most economically handled either at the plants of cooperatives with manufacturing facilities or by diversion directly to nonpool manufacturing plants. To facilitate the diversion to nonpool plants, a cooperative is accorded handler status for milk which it causes to be so diverted from any pool plant for its account.

Requiring a cooperative to be a handler for milk delivered from the farm to a pool plant in a tank truck owned and operated by or under contract to the cooperative will afford a practicable basis of accounting for such milk. In addition, it will provide added flexibility to a cooperative's operations in allocating its members' milk among handlers and will facilitate the diversion of such milk to nonpool plants when it is not needed at regulated plants.

Once milk from a producer has been commingled with milk of other producers in a tank truck, there is no further opportunity to measure, sample, or reject the milk of any individual producer whose milk is included in the load. A similar situation prevails when the milk of an individual producer is delivered in a tank truck to two or more plants. The operator of a pool plant to which bulk tank milk is delivered has an opportunity to determine only the weight and butterfat tests of the total load.

If a tank truck picking up milk at the farm is operated under the supervision of a cooperative association, it is the association that determines the weight and butterfat content of each producer's milk. Handlers have no control and generally take no part in determining the weight and butterfat tests of milk at the farm. In some instances, handlers may not even know from which farms their milk is shipped.

The milk delivered by the cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received. The pool plant operator's obligation for such milk to the producer-settlement fund, to the administration fund and to the cooperative would be the same as for producer milk received directly from the farm of an individual producer.

In some instances, as discussed elsewhere in this decision, differences between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative at the location of the pool plant. For such differences the cooperative (instead of the pool plant operator) would be required to settle with the producer-settlement and administration funds.

Producer-handler. Producer-handler should be defined as any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all fluid milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are his personal enterprise and risk.

The order is not intended to establish minimum prices for producer-handlers, but they should be required to make reports to the market administrator. Such reports are necessary to determine whether the operator continues to meet the producer-handler definition and, thus, exemption from the pooling and pricing provisions of the order.

It is expected that about seven persons would qualify as producer-handlers under the order. None of these made an appearance or testified at the hearing. Their operations were dscribed by other witnesses as relatively small.

A producer-handler's exemption from pooling and pricing should be contingent upon his meeting certain conditions. Such requirements are necessary to assure that the sale of his milk will not have a disruptive effect on the orderly marketing of producer milk in the Georgia market. It is appropriate, therefore, to provide that to maintain producer-handler status the maintenance, care and management of the dairy animals and other resources necessary to produce milk and the processing, packaging and distribution of milk shall be the personal enterprise and risk of the person involved. The term producer-handler is not intended to include any person who does not accept the responsibility and risk for the operation of the plant in which the milk of his own production is processed and bottled for sale.

Although it is expected that he would rely primarily on his own farm production, a producer-handler should be allowed to obtain supplemental supplies from pool plants without losing his exemption. There may be occasions when producer-handlers need to supplement their own production to supply their regular Class I outlets. As provided herein, milk obtained by producer-handlers from pool plants would be priced at the Class I price. Handlers and cooperatives proposed that such purchases not be permitted. However, there is no indication from the record that such a restriction would be necessary to assure that producer-handlers would not have a significant advantage over regulated handlers under present marketing conditions.

Any milk which a regulated handler receives from a producer-handler would be other source milk and, therefore, would be allocated to the lowest use classification after the allocation of shrinkage on producer milk. This is appropriate since milk disposed of to another handler normally would be surplus to the operation of the producer-handler.

It was proposed at the hearing that a producer-handler who failed to qualify as such in 1 month would lose his producer-handler status for the next 12 months. Proponents maintained that this would prevent him from exploiting the pool by becoming regulated when it was to his advantage, while retaining his exempt status at other times. Such a provision, however, could result in hardship in some instances. For example, an inadvertent failure to meet all requirements for producer-handler status in 1 month could cause a person to lose his designation as a producer-handler for an entire year. The regulatory effect of such action might too often tend to be disproportionate to the relative significance of the requirement that was not met.

It was proposed also to limit producer-handler status to operations of not more than 30,000 pounds monthly. This should not be adopted. The quantities of milk handled by the several handlers who would qualify as producer-handlers under the order was not presented on the record. Apparently, however, the milk handled by these producer-handler operations is an extremely small proportion of the milk in the market.

No testimony was presented to show that the size of a producer-handler's operation per se, currently or potentially, would provide a cost advantage on Class I milk to such operation or that such an operation handling more than 30,000 pounds of milk monthly would be a disruptive factor in the market. Moreover, it was not established that exempting those persons handling more than 30,000 pounds of milk monthly, who would otherwise qualify as producer-handlers under the order, would affect adversely the competitive position of regulated handlers or producers.

A handler, whose own production is about 10 percent of his supply, proposed that he be designated a producer-handler for his production. The production of this handler's farm is distributed under a "certified milk" label as a premium product. It is sold to consumers at a price higher than other brands of milk. The remainder of his supply, which is from other dairy farmers, is not sold as certified milk.

It is not uncommon for handlers through advertising and other means to benefit from the use of established brand names. The proponent handler, who sells milk in the Atlanta area, is apparently

the only person who sells milk under a certified milk label in Georgia. He is compensated for the demand he has created for his product by the higher returns from consumers. Whether any other milks are sold in the market to consumers at a premium price was not established on the record.

If the certified milk of the proponent handler or any special milk has a greater value than other designated milks, the premium price it is able to command should be paid for by the consumers to whom it has the greater value. It would be inappropriate to provide within the framework of the order a subsidy to the producer or consumer of that milk at the expense of other producers on the market.

Route disposition. The term "route disposition" would mean a delivery to a retail or wholesale outlet (except to a plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine), of a fluid milk product classified as Class I.

Fluid milk products may be moved from a milk plant to a distribution facility such as a warehouse, loading station or storage plant. The distribution from such latter points would be considered a route disposition from the milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location at which such products are received by retail and wholesale purchasers.

Reload point. A "reload point" should be defined as a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering the plant. A reload point would not be considered a plant. A reload operation on the premises of a plant, however, would be considered a part of the plant operations and not a reload point under the order.

A reload point is an assembly point where milk from smaller tank trucks is transferred into larger over-the-road tankers. Such over-the-road tankers are capable of traveling longer distances with a larger payload.

The operation of a reload point is distinguished from the operation of a plant in that a reload point has no facilities for either receiving, holding or processing of milk. It is a part of the transportation system for the milk en route from the farm to the pool plant.

The purpose of a reload point definition is to provide clearly that the facility at which the milk is transferred from a farm tank pickup truck to a larger truck for further transportation to a pool plant is not a plant, and is not a point of pricing, but is merely a part of the transportation system involved in transporting the milk from the dairy farm to the pool plant.

With the advent of the farm bulk tank system, the use of reload points is becoming more commonplace. Whether any are now used in Georgia was not established on the record. However, a reload point definition is desirable in the order to specifically distinguish such an operation from the operation of a plant involving the receiving, cooling, storing, and processing of milk.

The transfer of milk between tank trucks on the premises of a plant would be considered a part of the plant operation. It may reasonably be considered that any operation on the premises of a plant, whether involving a mobile or fixed facility, is a part of the plant operation.

Producer. Producer should mean any person (except a producer-handler or a governmental agency in its capacity as the operator of an exempt distributing plant) who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted therefrom to a nonpool plant under certain conditions. The producer definition will provide the necessary distinction between the production of those farmers whose milk will be priced and pooled each month under the Georgia order and the receipts at handlers' plants from all other sources.

"Producer" should not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another Federal order. Such a provision will contribute to orderly marketing by facilitating the movement of milk for manufacturing purposes from an other order plant to a pool plant.

Producer milk. Producer milk is intended to include all milk that is fully regulated by the order. Accordingly, it should be defined as all skim milk and butterfat contained in milk received at a pool plant directly from dairy farmers and milk diverted from a pool plant to a nonpool plant under certain conditions. As provided elsewhere in this decision, milk delivered by a cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received.

When milk is not needed in the market for Class I purposes, the movement of such milk to a nonpool plant for manufacturing purposes should be facilitated. It is necessary, however, to provide limitations on the amount of milk which may be diverted so that only that milk which is genuinely associated with the market will be diverted and only at those times when it is not needed in the market for Class I purposes.

Producers associated with this market are not expected to produce large quantities of milk in excess of the market's fluid requirements. Diversion provisions are provided herein primarily to enable handlers and cooperative associations to divert producer milk on such occasions as weekends and holidays when the milk is not needed in the market for Class I purposes.

Diversion of producer milk by a cooperative to a nonpool plant should be limited to 25 percent of the milk physically received from its producer-members at pool plants during the month. Similarly, a pool plant operator (other than a cooperative association) would be permitted to divert for his account up to 25 percent of the producer milk physically received at his plant during the month from producers who are not members of a cooperative association.

Unless it is diverted for manufacturing purposes, producer milk should not include any milk moved from a farm directly to an other order plant. Such milk's eligibility to be included under a Federal order would more appropriately be determined at the other order plant where received. In fact, diversion to such plants, if permitted unconditionally, could result in the pricing and pooling of the same milk under two orders.

Providing for the diversion of producer milk to an other order plant for manufacturing purposes would contribute to orderly marketing by facilitating the movement of milk for manufacturing from a pool plant to an other order plant. In some instances, a pool plant operator may find that his most desirable outlet for unneeded supplies is an other order plant. Specifying under the order that such milk may be diverted if a Class III classification (or comparable utilization under the other order) is designated for such milk pursuant to the other order will tend to insure the integrity of the regulation under both orders.

Only that milk genuinely associated with the market should be eligible to be diverted to nonpool plants. Therefore, it is provided that at least 10 days' production of a producer must be received at a pool plant during the month to qualify any of his production in the same month for diversion within the limits described above. A producer shipping on an every-other-day basis would under this standard be required, in effect, to ship only 5 days. The requirement herein adopted is sufficient to establish a producer's association with the fluid market and still permit the necessary flexibility in diverting milk not needed for fluid use.

Milk diverted to nonpool plants in excess of the limitations provided would not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on a quantity of milk equal to such excess. In such instances, the diverting handler would specify which milk is ineligible as producer milk. If the handler fails to make such designation, thereby making it infeasible for the market administrator to determine which milk was overdiverted, all milk diverted to nonpool plants by such handler would be made ineligible as producer milk.

Producer milk that is diverted should be priced at the location of the plant to which diverted instead of at the location of the pool plant to which it is customarily delivered. If such milk were priced at the pool plant from which diverted, producers located close to the market would, in effect, be subsidizing

more distant producers when the latters' milk is diverted to distant manufacturing plants. This is because all producers in the market would be paying through the pool a transportation cost on milk which is not moved to the market and on which an equivalent transportation charge is not incurred by the more distant producers.

Other source milk. A definition of "other source milk" is necessary to facilitate the application of the order to the various categories of receipts at a regulated plant.

Other source milk should include all skim milk and butterfat contained in or represented by (a) fluid milk products utilized by the handler in his operation (except producer milk and fluid milk products from pool plants), (b) all manufactured dairy products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month, and (c) any disappearance of nonfluid milk products in a form in which they may be converted into Class I products and which are not otherwise accounted for under the order.

In order to verify the actual utilization of milk received from producers, it is necessary that the market administrator be in a position to reconcile all receipts of milk and dairy products with the disposition records of the plant. If such records cannot be reconciled, the handler must be held responsible for the shrinkage or the overrun which occurs as a result of the discrepancy between records of receipts and disposition. Otherwise, the handler with improper records would be in a position to gain an advantage over his competitors who properly account for all milk and dairy products received. It is equally necessary that the handler be required to account for all nonfluid dairy products in a form in which they can be converted into Class I products. Otherwise, a handler, by failing to keep records of the nonfat dry milk and similar products which can be reconstituted into skim milk or other fluid products, would gain a competitive advantage over other handlers in the market.

Fluid milk products. "Fluid milk products" should mean milk, skim milk, flavored milk, flavored milk drinks, concentrated milk, cream and mixtures of cream and milk or skim milk. The items designated as fluid milk products pursuant to this definition are those which, when disposed of by handlers, are included as Class I milk.

Producers proposed that filled milk also be a fluid milk product. This issue is reserved for a later decision.

A hearing held at Memphis, Tenn., in February, April, and May 1968 (33 F.R. 2785) dealt with the disposition or potential disposition in all Federal order markets of filled milk and certain other products containing milk or milk derivatives which are disposed of in fluid form. Evidence was received as to the need for a coordinated program of regulation of such products in all Federal order markets. No decision based on the Memphis hearing has been issued.

Producers indicated that the treatment of filled milk under the Georgia order should be coordinated with the results of the Memphis hearing. Little, if any, filled milk is being distributed in the Georgia market at the present time. Accordingly, no action is taken herein on the filled milk issue pending the outcome of the Memphis hearing.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified on the basis of skim milk and butterfat according to the form in which, or the purpose for which, such skim milk and butterfat was used or disposed of as Class I, Class II, or Class III milk.

Milk is received by handlers directly from dairy farmers, from other handlers, and from other sources. Milk from all these sources is commingled in handlers' plants. It is necessary, therefore, to have a plan for allocating the uses of milk to each source of supply in order to afford a means to establish the classification of producer milk and to apply the classified pricing plan.

The products included in Class I milk are required by health authorities in the proposed marketing area to be produced in compliance with the inspection requirements of a duly constituted health authority. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products considerably above the manufacturing milk price. The higher price should be at a level which will yield a blend price to farmers that will encourage production of enough milk to meet market needs.

In accordance with these standards, Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk, flavored milk, flavored milk drinks, concentrated milk, cream (except sour cream), and mixtures of such cream and milk or skim milk. These Class I products would be designated in the order as "fluid milk products." Class I, however, should not include any of the above products which are sterilized and in hermetically sealed glass or metal containers. Fluid milk products to which extra skim milk solids have been added or frozen or concentrated milk disposed of for fluid use likewise would be included as Class I milk. Any skim milk and butterfat not accounted for in Class II or Class III would be included in Class I.

Some nonfat milk solids are utilized through reconstitution or fortification in the preparation of Class I products distributed in the marketing area. For purposes of accounting for this skim milk required to produce the product, the added nonfat milk solids should include the normal quantity of water originally associated with the solids. The volume of the reconstituted or fortified product classified in Class I would be the quantity equal to the volume of the same product made without the addition of nonfat milk solids. The remaining volume of the product, which represents the skim milk equivalent of added nonfat milk solids, should be classified as Class III.

Skim milk and butterfat unaccounted for in a Class II or Class III utilization by a handler should be classified in Class I. Such a provision is necessary in the proposed order to insure the integrity of the regulation. Otherwise, a handler could gain an advantage by not fully accounting for the disposition of the milk handled in his plant. In view of this, it is necessary that the utilizations at a plant which are included in the Class II and Class III categories be explicitly set forth in the order.

Class II should include all skim milk and butterfat used to produce buttermilk. A separate classification for buttermilk is necessary to accommodate the pricing of such skim milk and butterfat at a level approximating the cost to handlers of alternative milk supplies for buttermilk production.

When supplies of fresh skim milk are not available from farmers supplying the Georgia market, handlers reconstitute buttermilk from such products as nonfat dry milk and dry buttermilk. The cost of such nonfluid milk products to handlers is less than the Class I value proposed herein for skim milk in producer milk.

If buttermilk were a Class I product, handlers using producer milk in its production would have a higher ingredient cost under the order than those using nonfluid milk products when producer milk is not available. In this circumstance, the latter handlers would have a cost advantage under the order on buttermilk production. Including buttermilk in a lower-price classification will tend to assure equity among handlers on the cost of milk used to produce buttermilk.

Class III should be all skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), eggnog, yogurt, aerated cream products, butter, cheese (including cottage cheese), evaporated or condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and sterilized products in hermetically sealed glass or metal containers.

In this market, sour cream and sour cream mixtures (e.g., "party snacks" or "dips") are sold in competition with salad dressings. Because of this, producers proposed a Class III classification for sour cream and sour cream mixtures. The butterfat in sour cream mixtures is usually below the minimum standard percentage for sour cream. Such products are not, however, generally considered in the fluid milk product category. It would be appropriate, therefore, that the skim milk and butterfat in fluid milk products combined with sour cream, and otherwise used in the manufacture of sour cream products, such as party snacks and dips, be classified in Class III.

Inventories of fluid milk products at the end of each month enter into the accounting for a handler's current receipts and utilization. To facilitate the accounting procedure, the month-end inventories of bulk fluid milk products should be classified in Class III. In the following month, they would be subtracted under the allocation procedure from any available Class III milk. The higher use value

of any such skim milk and butterfat allocated to Class I in the following month would be reflected in returns to producers.

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 III as in the case of bulk milk.

To insure that all handlers pay the current month's Class I milk price for Class I dispositions 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.

Inventories would include only the skim milk and butterfat in bulk and packaged fluid milk products on hand at the end of the month. Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for when used to manufacture a dairy product (and classified as Class II or Class III), such skim milk and butterfat would not be included in inventories.

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

Skim milk and butterfat in fluid milk products and buttermilk dumped or disposed of by a handler for livestock feed should be classified as Class III milk. Such outlets often represent the most efficient means of disposing of surplus skim milk. Transportation and handling costs are such that it is uneconomical to ship relatively small quantities of unneeded skim milk to trade outlets for surplus disposal. In the case of route returns of such products as homogenized milk and chocolate milk it is difficult or impracticable to salvage the butterfat for further use. Such butterfat which is not salvageable should be classified as Class III when dumped or disposed of for livestock feed.

It would not be practicable to permit in an unlimited manner the dumping of skim milk and butterfat by pool plant handlers. Neither would it be appropriate to classify such skim milk and butterfat for which no better outlet is available in other than Class III. Accordingly, the order should clearly specify a Class III classification for the skim milk and butterfat in fluid milk products and buttermilk dumped, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

Skim milk and butterfat in fluid milk products delivered in bulk form to and used at a commercial food processing establishment (other than a milk plant) in the manufacture of bakery products, candy, or packaged processed food products for consumption off the premises should be classified in Class III. Such commercial food establishments usually can readily substitute concentrated milk products (e.g., condensed milk, butter, nonfat dry milk) in place of fluid milk products in their operations. To provide other than a Class III classification for the skim milk and butterfat in fluid milk products moved to commercial food establishments could result in losing for local producers these established outlets for Class III milk.

Frozen cream is most generally used to produce frozen desserts or other Class III products. Under some conditions, however, frozen cream may be ultimately disposed of as fresh fluid cream or used in the production of other Class I products such as flavored milk drinks. The classification of skim milk and butterfat used to produce frozen cream should, therefore, be based on the actual disposition of such cream. Frozen cream placed in storage should be considered as a Class III classification in the same manner as any bulk fluid milk product in a handler's inventory at the end of the month. Its Class III classification would be definitively established in any month in which it was used to produce a Class III product or qualified as a Class III transfer to another plant. Frozen cream that was not accounted for in a manufactured product would necessarily be classified in Class I.

Waste and loss of skim milk and butterfat experienced in plant operations are referred to as "shrinkage". Since shrinkage represents disappearance of milk for which the handler must account but for which no direct return is realized, it should be considered as Class III milk to the extent that the amount is reasonable and is not the result of inadequate or faulty records.

The maximum shrinkage allowance in Class III at each pool plant should be 2 percent of producer milk, plus 1.5 percent of producer milk from a cooperative as a handler and bulk fluid milk products from other pool plants, and less 1.5 percent of bulk fluid milk products transferred or diverted to other plants. The 1.5 percent shrinkage allowance would be allowed on bulk fluid milk products received from other order plants and unregulated supply plants exclusive of the quantity of such receipts for which a Class III utilization is expressly requested by a handler.

The proposed 2 percent maximum shrinkage allowance of producer milk in Class III is substantially the same as provided in all but some few of the 76 orders in effect at the time of the hearing. Because of its wide applicbaility, handlers proposed its inclusion in the proposed order. A producer proposal would instead provide for prorating shrinkage up to 2 percent of a plant's producer milk according to the utilization at the plant. This would reduce substantially the quantity of shrinkage eligible for a Class III classification.

The basis for the producer shrinkage proposal was the claim that plant losses are directly related to utilization at a plant. No testimony was presented, however, of any specific experience in the market to substantiate quantitatively the producer claim. Neither was it otherwise shown that conditions in the proposed marketing area justify a shrinkage allowance in Class III that is substantially below that found to be reasonable and appropriate in most other Federal order markets.

Plants which are operated in a reasonably efficient manner and for which acceptable records of receipts and utilization are maintained should not have plant losses in excess of the maximums provided. Any shrinkage in excess of the maximums should be classified as Class I milk. This is reasonable and necessary to strengthen the classified pricing plan and will tend to encourage the maintenance of adequate records and the efficient handling of milk.

The maximum shrinkage allowance in Class III herein provided is based on the experience of the pool plant at which the milk classified is received. If a handler operates more than one plant, he would compute his shrinkage allowance for each plant separately. To provide otherwise would establish different standards for single and multiple plant operators and accord an unwarranted advantage to the latter. Combining the receipts and utilization figures of two or more plants for determining shrinkage could have the effect of allowing a Class III classification for shrinkage in excess of the limits herein found to be appropriate. This is because the excess shrinkage at a plant (which is subject to a Class I classification) would be eligible to be classified in Class III if combined with the classification of another plant of a handler.

As provided elsewhere in this decision, a cooperative would be the handler for milk delivered from producers' farms to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative. When a cooperative is a handler under such conditions, the operator of a pool plant receiving this bulk tank milk directly from the farm would settle with the pool and the cooperative for such milk in the same manner as a receipt from producers. However, the full 2 percent allowance for shrinkage would be permitted the handler only if he is purchasing the milk on the basis of farm weights and has so notified the market administrator. Otherwise, the maximum Class III shrinkage allowed the handler on such milk would be 1.5 percent and the cooperative would be responsible for any difference between the gross weight of producer milk received in the tank

truck at the farms and that delivered to pool plants. This procedure is followed in a number of other orders and provides a reasonable basis for the allocation of the shrinkage allowance in those instances wherein the cooperative is the responsible handler with respect to milk picked up at producers' farms in bulk tank trucks.

In those instances in which a pool plant operator is not purchasing farm tank milk (from a cooperative as a handler) on the basis of farm weights, any difference between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative at the location of the pool plant. The cooperative would report such differences, which may reasonably be expected to be within 0.5 percent of the quantity of the producer milk determined on the basis of farm weights during the month, to the market administrator for inclusion in the monthly pool computation. Up to 0.5 percent of the producer farm tank milk involved would be reported in the pool as Class III; any such difference in excess of the maximum allowable Class III shrinkage of 0.5 percent would be Class I. The cooperative would be responsible for settling with the producer-settlement fund for the total quantity of shrinkage as reported. If the quantity of bulk tank milk physically received at a pool plant from a cooperative during the month is the same as the farm weights, the cooperative would have no settlement to make with the producer-settlement fund on such milk.

It is appropriate to limit the volume of unregulated supply plant milk and other order milk that may be classified in Class III as shrinkage since these types of receipts are allocated pro rata to class uses along with quantities received from pool plants and producers. Under the allocation system provided, such other source milk will share with producer milk in any shrinkage allocated to Class I when the specified Class III shrinkage limitations are exceeded. No specific shrinkage limit is necessary on unregulated or other order milk that does not share a pro rata assignment and thus is allocated first to Class III uses, since the allocation procedure insures assignment of such milk to Class III in an amount at least equal to the shrinkage that may be associated therewith.

To insure an equitable assignment of total shrinkage to the two categories of receipts (i.e., receipts for which there is a percentage limitation for Class III shrinkage assignment and receipts for which there is no such limitation), the total shrinkage should be prorated to these two categories.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from farmers and, therefore, should be classified according to their separate uses. The skim milk and butterfat content of milk products received and disposed of by a handler can be determined through certain testing procedures. Some products such as ice cream and condensed products present a difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable in the case of such products to provide an appropriate means of ascertaining the amount of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of concentrated milk products, such as condensed milk or nonfat dry milk, should be based on the pounds of milk or skim milk required to produce such product.

Skim milk and butterfat used to produce Class II and Class III products should be considered to be disposed of when such products are produced. Handlers will need to maintain stock records on such products, however, to permit audit of their utilization records by the market administrator so that verification of such utilization may be made. If a handler fails to keep the necessary records for verification purposes, the skim milk and butterfat will be reclassified as Class I milk.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. A handler who first receives milk from dairy farmers should be held responsible for establishing the classification of and making payment for such milk. Fixing responsibilities in this manner is necessary to effectively administer the provisions of the order.

Except for the quantities of shrinkage that may be classified in Class III, all skim milk and butterfat for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage that might accrue to handlers who fail to keep complete and accurate records and to assure that dairy farmers receive payment for their milk on the basis of its use. Accordingly, the burden of proof should be on the handler to establish the utilization of any milk as other than Class I.

Transfers. Some fluid milk product items may be disposed of to other plants for Class II or Class III use. It is necessary, therefore, to provide specific rules so that the classification of such transfers may be determined under this order.

Fluid milk products transferred from a pool plant to the pool plant of another handler should be Class I unless both plant operators claim a Class II or Class III classification on their monthly reports to the market administrator and sufficient Class II or Class III utilization is available at the transferee plant after the allocation of its receipts of other source milk. If other source milk (e.g., nonfat dry milk) to which a surplus value inherently applies is received at the shipping plant during the month, the skim milk or butterfat in fluid milk products involved in such transfer should be classified so as to allocate the least possible Class I utilization to such other source milk. If the shipping handler receives other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

The above provisions governing transfers between pool plants will contribute to obtaining the best possible utilization of producer milk. Such provisions will tend to insure that producer milk used in Class I will not be classified in a lower class when interplant shipments involve a pool plant with receipts of other source milk. Unless such safeguards are provided, a high-utilization plant could be used as a conduit for assigning milk obtained from nonpool sources for manufacturing purposes to a higher utilization (at the expense of producer milk) than it would receive by direct delivery to the plant at which it is actually utilized.

Fluid milk products transferred or diverted to a nonpool plant (other than transfers to the plant of a producer-handler, an exempt distributing plant, or an other order plant) should be classified as Class I milk unless a lower classification is requested and the operator of the nonpool plant makes his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk and milk products in the nonpool plant. Such transfers to the nonpool plant should be assigned first to its Class I disposition in regulated areas and thereafter to other Class I usage in excess of receipts from dairy farmers who regularly supply the nonpool plant, and the remainder to the Class II or Class III uses of the plant. Provision should also be made for sharing the Class I utilization of the nonpool plant when transfers to the plant are made from other regulated plants.

The method herein provided for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

Fluid milk products transferred to other order plants would be classified according to the utilization assigned them at such other order plants. The findings and conclusions in this decision relating to the allocation provisions and the findings and conclusions adopted therein substantiate the procedures for effectuating such interorder transfers.

Allocation. Because the value of producer milk is based on its classification, the order must prescribe an assignment of receipts from all sources during the month to establish such classification.

The system of allocating handlers' receipts to the various classes should be basically the same as that adopted in

the decision issued June 19, 1964, for 76 milk orders integrating into each order's regulatory plan milk which is not subject to classified pricing under any order and receipts at pool plants from other order plants. Official notice was taken of that decision at the hearing (29 F.R. 9002). That decision provides a procedure for allocating over a handler's total utilization his receipts from all nonpool sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Producers and handlers testified that the method adopted as a result of the June 19, 1964, decision is appropriate in this area and will coordinate these regulations with respect to the treatment of unregulated milk and other order milk with comparable regulations under other Federal orders. Accordingly, they adopted the findings and conclusions contained in that decision as their own justification for incorporating these provisions in the proposed order.

The aforesaid decision sets forth the standards for dealing with unregulated milk under Federal orders and the system of allocation to be included in all orders. It describes the appropriate treatment of other order milk received at pool plants so as to coordinate the applicable regulations on all movements of milk between Federal order markets. This record indicates that the findings and conclusions of the aforesaid decision are equally applicable under current conditions in the proposed marketing area and, accordingly, are adopted in their entirety as if set forth in full herein.

The allocation provisions of the order should specify that a handler may 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. Such a provision, which is included in the nearby Chattanooga and Knoxville orders, was proposed by handlers. There was no opposition to it.

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.

Incorporation of the proposed provision in the order will contribute to orderly marketing and to the optimum utilization of producer milk.

(c) *Class prices—Class I price.* The price for Class I milk should be computed by adding specified amounts to a basic formula price (Minnesota-Wisconsin manufacturing milk price series).

For the first 12 months that the order is fully effective, the Class I price should be the basic formula price plus $2.10 and plus an additional 20 cents through April 1969. Also, for the purpose of computing Class I prices through April 1969, the basic formula price should be not less than $4.33. This would currently obtain a Class I price of $6.63.

The method of adding a differential to such basic formula price in determining the price for Class I milk gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products. Prices for milk used for fluid purposes in the proposed marketing area have a direct relationship to the prices paid for milk used for manufacturing purposes.

A differential over manufacturing milk prices is necessary to cover the extra costs of meeting quality requirements in the production of milk for fluid uses and in transporting the milk to market. Moreover, it is a necessary incentive for dairy farmers to produce and deliver an adequate supply of quality milk to meet the demand for fluid milk.

Producers proposed that the Class I price be computed by adding a specified differential to a basic formula price. As the basic formula price, they proposed the Minnesota-Wisconsin manufacturing milk price series. This series is based on prices paid at a large number of manufacturing plants in each of the two States. Plant operators report the total pounds of manufacturing grade milk received from farmers, the total butterfat content and the total dollars paid to dairy farmers for such milk, f.o.b. plant. These prices are reported on a current month basis and the announced Minnesota-Wisconsin price is available on or before the fifth day of the following month. The Minnesota-Wisconsin price series is the basic formula price in most Federal order markets, including markets that would serve as sources of supplemental milk for Georgia handlers.

This price series reflects a manufacturing price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. Further, it reflects the supply and demand of such products within a highly coordinated marketing system which is national in scale. The series is appropriate for use in establishing milk prices under the Georgia order.

Since the Class I price for the current month would be announced by the fifth day of the month, the basic formula price used in computing the Class I price should be that reflecting the Minnesota-Wisconsin price for the preceding month. This procedure is commonly used in other Federal orders.

Producers and handlers proposed that a Class I differential of $2.40 be added to the basic formula price. Producers proposed also that the basic formula price be not less than $4.33 through April 1969.

The Class I price must be established at a level which, in conjunction with the other class prices, will result in returns to producers high enough to maintain an adequate, but not excessive, supply of quality milk to meet the requirements of consumers, including the necessary market reserves. The Class I price also must be in alignment with those prevailing in nearby Federal order markets. It should not be at a level, though, which exceeds the cost of obtaining milk of acceptable quality and regular availability from alternative sources.

The Class I price proposed herein will tend to maintain an adequate supply of milk for the market. Also, it will be appropriately aligned with the Class I price in the Chattanooga order. There is substantial competition between Chattanooga order handlers and those under the proposed order in procurement and sales. In addition, the Class I price will be aligned with those other Federal order markets from which alternative milk supplies would be available to Georgia handlers.

The Chattanooga marketing area is made up of nine counties in Tennessee and seven in Georgia. The city of Chattanooga is the major distribution point and the center of heaviest concentration of population in that marketing area. It is 119 miles from Atlanta, which is also a major distribution point and the heaviest concentration of population in the proposed marketing area. There is a significant overlapping of the sales and procurement areas of the Chattanooga order handlers and handlers who would be regulated by the proposed order. It is necessary, therefore, that appropriate recognition be given to the Class I price under the Chattanooga order in establishing the Class I price under the proposed order.

The Chattanooga order provides for a Class I price computed by adding $1.75 to a basic formula price (Minnesota-Wisconsin manufacturing milk price series) plus or minus a supply-demand adjustment. For the year ending with September 1968, the supply-demand adjustment averaged plus 20 cents. Official notice is taken of the Chattanooga order monthly Class I announcements issued after the close of the hearing.)

In addition to the above, the Chattanooga order was amended effective May 1, 1968, through April 1969 to provide for a 20-cent increase in the Class I price and to specify that for the purpose of computing Class I prices the basic formula shall not be less than $4.33.

The above amendments to the Chattanooga order resulted from a decision issued April 15, 1968 (33 F.R. 6106). That decision was based on the record of a hearing on February 23, 1968, in Memphis, Tenn., and provided for similar temporary emergency increases through April 1969 in 70 other Federal orders.

Official notice is here taken of the aforesaid decision. The market conditions which warranted the temporary price increases in the marketing areas under consideration at the Memphis hearing exist similarly in the Georgia marketing area. The findings and conclusions of that decision are equally applicable to the Georgia marketing area and are adopted herein.

Currently, the Chattanooga Class I price, after giving consideration to the temporary emergency increases through April 1969, is made up of the following: A basic formula price of $4.33, a $1.75 Class I differential, a 20-cent temporary increase and a supply-demand adjustment. Adding to the above the average supply-demand adjustment of plus 20 cents which has been effective in the past year obtains a Class I price of $6.48, 15 cents less than the $6.63 price that would presently result under the proposed Georgia order.

The proposed Class I price differential of $2.10 recognizes the average 20-cent supply-demand adjustment that has been applicable under the Chattanooga order in the year ending September 1968. The effect of the supply-demand adjustment in determining the Chattanooga Class I price over an extended period of time is uncertain. For the 5 years through 1967, the Chattanooga supply-demand adjustments have averaged zero. It would be inappropriate, therefore, to utilize the Chattanooga supply-demand adjustments as a factor in determining the Georgia Class I price on other than a temporary basis. Thus, it is proposed herein that the Georgia Class I price be effective only for the first 12 months in which the order is fully effective. At that time, sufficient experience under the order would be available to determine whether the Class I pricing basis should be changed.

At 1.5 cents per hundredweight for each 10 miles (the location differential rate herein proposed and commonly applicable in Federal orders), an 18-cent charge would be computed on the basis of the 119 miles between Chattanooga and Atlanta, the principal cities in these adjacent marketing areas. The $2.10 proposed Georgia Class I differential (vs. $1.75 in the Chattanooga order plus the average 20-cent supply-demand adjustment) gives recognition to this.

Deliveries of dairy farmers supplying handlers who would be regulated under the proposed order may not be adequate in all months for the buying handlers' needs. In establishing Class I prices under this order, consideration must be given to the cost of obtaining milk, whether for supplemental needs or as a regular supply, from alternative sources. The Chicago area is a major source of supplemental supplies for markets throughout the United States. The basis for pricing milk received from Chicago is the Chicago Class I price plus the cost of transporting milk from Chicago to the receiving market.

Official notice is here taken of the Chicago Regional order which became effective July 1, 1968 (33 F.R. 9005). The current Class I price under that order is $5.53 (a basic formula of $4.33 plus a $1.20 differential). At 1.5 cents per hundredweight per 10 miles, the cost of moving milk the 692 miles from Chicago to Atlanta is $1.05. This would obtain a price of $6.58 for the Chicago milk f.o.b. Atlanta, an amount approximating the $6.63 under the proposed order.

The cost to Georgia handlers for milk from Chicago and from other Federal order markets will not vary significantly. This is because the Class I prices in all such markets must bear a reasonable relationship to each other. The proposed Georgia Class I price represents a reasonable alignment with prices in other markets from which milk may be obtained.

Class II price. The price for Class II milk (skim milk and butterfat in buttermilk) should be the basic formula price for the month plus $1. For the year ending with September 1968, this price would have averaged $5.10.

Locally produced milk is not always adequate to meet handlers' total needs. When local supplies are short, handlers obtain concentrated dairy products from other sources for further processing into buttermilk. In this circumstance, the class price for milk used in buttermilk should be maintained in reasonable alignment with the cost of these alternative supplies. Otherwise, handlers using nonfluid milk products in buttermilk production would have a substantially lower ingredient cost under the order than those using producer milk.

The proposed Class II price, which was supported by handlers, will provide the necessary price alignment between producer milk and nonfluid milk products used in producing buttermilk.

Class III price. The Class III price should be the basic formula price for the month.

The basic formula price (Minnesota-Wisconsin manufacturing milk price series) reflects the value of manufacturing milk in the major production areas of the United States. Because manufactured milk products compete on a national basis, it is important that the price for surplus uses in the market be in close alignment with similar uses nationally. Both producers and handlers supported the Class III price herein proposed. That price in the year ending with September 1968 averaged $4.10.

The Minnesota-Wisconsin price series is representative of prices paid to farmers for about half the manufacturing grade milk in the United States. In Minnesota about 84 percent of the milk sold off farms is manufacturing grade and in Wisconsin about 58 percent. Official notice is here taken of "Prices Received by Farmers for Manufacturing Grade Milk in Minnesota and Wisconsin, 1961–66," SRS–11, issued November 1967 by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture. This price series reflects a price level determined by competitive conditions which are affected by demand in all major uses of manufactured dairy products. Also, it reflects the supply and demand of manufactured dairy products within a highly coordinated marketing system which is national in scope.

The production of milk for Class III purposes by Georgia producers results basically from their maintaining a level of production to meet the Class I needs of the market. Accordingly, handlers depend on shipments of products in manufactured form for a substantial portion of their Class III requirements.

The Class III price should be at such a level that handlers will accept and market whatever quantities of milk in excess of Class I needs may arise from time to time. The price, however, should not be so low that handlers will be encouraged to seek milk supplies solely for the purpose of converting them into Class III products.

The Class III price herein proposed, because it reflects the competitive value of manufacturing milk on a national basis, will be an appropriate measure of the value of reserve supplies of producer milk utilized for manufacturing purposes under the order.

Butterfat differentials. Because of variations in the butterfat content of milk delivered by individual producers and in milk and milk products sold by different handlers, it is necessary to provide "butterfat differentials" to insure equitable payments reflecting such variations in butterfat.

The Class I butterfat differential should be 12 percent of the Chicago butter price for the preceding month and the Class II and Class III differentials should be 11.5 percent of the Chicago butter price for the current month. For 1967, this would have resulted in an average Class I differential of 8 cents and an average Class II and Class III differential of 7.6 cents.

The butterfat differential to producers should be calculated at the average of the Class I, Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class during the month. Thus, returns to producers will reflect the actual value of their butterfat at the class prices provided by the order.

The butterfat differentials herein provided were the only ones proposed at the hearing. There was no opposition to them. They have wide acceptance in the industry and are the butterfat differentials most applicable in Federal orders.

The Class II and Class III prices and the corresponding butterfat differentials will not be announced until after the end of the month and should be based on current month prices. Although handlers will not know the exact cost of Class II and Class III milk as it is utilized, they will know that their costs tend to follow daily and weekly dairy product prices and the cost of milk to their principal competitors.

The proposed Class I, Class II, and Class III butterfat differentials, by pricing butterfat in producer milk competitively with butterfat for comparable uses from alternative sources of supply, will facilitate the orderly marketing of producer milk under the proposed order.

Location adjustments. Location adjustments should be incorporated into the order to provide an appropriate adjustment of the Class I and uniform prices. Such adjustments should be based on the location of any plant at which producer milk or other source milk is received.

A location differential of minus 15 cents should apply to milk received at plants in a 29-county area in northern Georgia designated in the proposed order as the "Northern Zone". It would be defined to mean all the territory in the Georgia counties of Banks, Bartow, Catoosa, Chattooga, Cherokee, Dade, Dawson, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Habersham, Hall, Hart, Jackson, Lumpkin, Madison, Murray, Pickens, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield. ("Southern Zone" would be defined to mean all the territory in Georgia that is not within the Northern Zone.)

For milk received at plants that are outside Georgia, north of an east-west line extending from Atlanta, and 100–110 miles from the nearer of the city halls in Atlanta and Augusta, the Class I price should be reduced 15 cents. For plants beyond the 110-mile limit, the Class I price should be reduced 15 cents plus an additional 1.5 cents for each 10 miles or fraction thereof that such plants are more than 110 miles from the nearer of the city halls in Atlanta and Augusta. The applicable mileage for determining the location adjustment would be measured by the shortest hard-surfaced highway distance as determined by the market administrator.

Class I milk products, because of their bulky, perishable nature, incur a relatively high transportation cost if such products or the milk used to produce them are moved considerable distances. Milk delivered directly by farmers to plants in or near the urban centers in the defined marketing area, therefore, is worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because, in the latter instance, the handler must incur the additional cost of moving that milk to the central market. Under these conditions, the value of producer milk delivered to plants located some distance from the market is reduced in proportion to the distance (and the cost of transporting such milk) from the point of receipt to the market. Providing location differentials based on the cost of moving milk to the market will insure uniform pricing to all handlers regardless of the location where the milk is procured.

To be equitable to all handlers, the Class I price should not be dependent on the type of plant receiving the milk. To the extent that milk is received at distributing plants from producers at a considerable distance from the market and brought to the market by the handler, he has assumed a transportation cost which might otherwise be borne by producers. Accordingly, the Class I price should be adjusted at such plants to reflect the cost of hauling milk to market.

Producers proposed that the Class I price for milk received at plants in Georgia and Florida be increased 1.5 cents for each 10 miles from the nearest of the city halls in Augusta, Columbus, and Macon. They proposed that no location adjustment, plus or minus, apply at Georgia plants north of the designated cities or at plants in Alabama and South Carolina. For milk received at plants outside Georgia, Florida, Alabama, and South Carolina and more than 115 miles from the State Capitol in Atlanta and the city hall in Toccoa, Ga., producers proposed that the Class I price be reduced 1.5 cents for each 10 miles beyond 115 miles from the nearer of Atlanta or Toccoa.

Handlers proposed that no location differential, plus or minus, be applicable at any plant in Georgia. They proposed, however, that for milk received at plants in Floyd and Bartow Counties, Ga., the Class I price should not exceed the Chattanooga order Class I price by more than 15 cents.

There is substantial competition in both procurement and sales in the Northern Zone between Chattanooga handlers and handlers who would be regulated by the proposed order. Seven of the 29 counties in the Northern Zone are in the Chattanooga marketing area. Testimony at the hearing urged that other Northern Zone counties should also be included in the Chattanooga marketing area instead of the proposed Georgia marketing area. A number of plants having distribution in the Northern Zone have sales in both the Chattanooga and proposed Georgia marketing areas. It is important, therefore, that the location differential applicable at plants in the Northern Zone result in a Class I price under the proposed order that approximates the Chattanooga Class I price. The 15-cent location differential here proposed for milk received at plants in the Northern Zone is an appropriate factor for accomplishing this purpose. Also, it will insure that the several plants under the proposed order and those under the Chattanooga order in the Northern Zone will pay approximately the same Class I price for their supplies.

The cost of obtaining milk from alternative sources of supply in the major milk production areas of the country (all of which are to the north) is an important factor in establishing Class I prices. In recognition of this, the structure of the Class I price under the order provides a higher Class I price in the southern portion (Southern Zone) of the marketing area than in the Northern Zone. It would be inappropriate, therefore, to provide for downward adjustments in the Class I price for milk received at plants south of the major points of distribution in the marketing area.

Atlanta is the major point of distribution in the marketing area. Of the 41 plants that would be regulated under the proposed order, 12 are in the Atlanta area. Of the approximately 1,465 producers supplying the market in May 1968, 642 delivered to these 12 plants. More than 25 percent of the approximately 4 million people in Georgia live in the Atlanta metropolitan area.

A number of Alabama and South Carolina plants have some route disposition in the marketing area. Several will qualify as fully regulated plants under the order. The others would be subject to the order as partially regulated distributing plants. Accordingly, appropriate consideration must be given to differentials which would be applicable at plants in these adjoining States.

The Atlanta, Augusta, Columbus, Macon, and Savannah metropolitan areas are among the principal areas of population in the State and represent the areas in which the greater portion of sales in the market are made. Also, they represent the principal points at which milk is processed for distribution throughout the marketing area. Of these cities, Atlanta and Augusta are so situated geographically as to serve as appropriate measuring points from which to determine location adjustment mileages.

The order should specify also the line north of which location adjustments would apply at plants outside Georgia. An east-west line extending from the city hall in Atlanta would be most suitable for this purpose.

The location adjustment at any plant in Alabama or South Carolina should be not more than 15 cents. Under the proposed order, the only plants in these States at which such adjustments could be applicable are those north of the east-west line extending from Atlanta and at least 100 miles from the nearer of Atlanta and Augusta. The 29-county area in Georgia designated as the Northern Zone is geographically between the northern portions of Alabama and South Carolina. A 15-cent location differential is applicable for milk received at all locations in the Northern Zone.

An important consideration in establishing the 15-cent location differential in the Northern Zone is the alignment of the Class I price in that area with the Chattanooga order Class I price. It would be impractical to provide a lower Class I price at plants in northern Alabama and northern South Carolina than at plants in the Northern Zone, as would result if the order provided a location adjustment of more than 15 cents at any plants in Alabama or South Carolina. It would likewise be impractical to provide for a lower Class I price in Alabama and South Carolina (by a location adjustment) than that provided in the nearby Chattanooga order.

The basis set forth in this decision for a 15-cent location adjustment throughout the 29 Georgia counties in the Northern Zone is equally applicable with respect to the locations in Alabama and South Carolina at which greater location adjustments would otherwise be applicable. Limiting the location adjustment at plants in Alabama and South Carolina to not more than 15 cents will insure orderly marketing in the area by maintaining an appropriate alignment of prices among handlers.

The producer proposal to increase the Class I price by a plus location differential of 1.5 cents for each 10 miles that a plant is south of Augusta, Columbus, and Macon should be denied. Of the 3.9 million people in Georgia in 1960, 2.9 million were in the metropolitan areas of Atlanta, Augusta, Columbus, Macon, and Savannah. Except for these metropolitan centers and a relatively limited number of smaller urban areas, Georgia is predominantly rural. Of the 151 counties in the proposed marketing area, seven had populations of 100,000 and over, 30 had populations of 20,000 to 99,999 and 114 had populations of less than 20,000.

Milk produced for the market is moved principally to Atlanta and other major cities in the marketing area for processing for distribution throughout the marketing area. A relatively small proportion of the total production for the market is delivered to plants in southern Georgia, which is predominantly rural. A higher price for milk delivered to plants in southern Georgia would provide an incentive for producers now supplying the Class I needs of processing plants in the northern part of the State to shift to Southern Georgia plants, even though their milk was not needed at the latter plants for Class I purposes. Instead of contributing to the maintenance of an adequate supply of milk for the market, a higher Class I price in southern Georgia would provide an incentive to move milk from plants where it is needed for Class I purposes to plants in southern Georgia for manufacturing purposes.

A higher price at southern Georgia plants than at plants in Atlanta and other locations in the marketing area is not necessary to maintain an adequate supply of milk for southern Georgia handlers. There is no indication that, historically, a higher price has been necessary to maintain an adequate supply of milk for southern Georgia plants than for other plants in the State. The interest of the market would best be served by providing the same Class I price for milk delivered at all plants in the Southern Zone instead of providing an increasingly higher level of prices in southern Georgia as proposed by producers.

The location differentials herein proposed are economically sound and would be applicable at all plants from which any milk is marketed under the order. These differentials reflect the efficiency resulting from technological changes in the marketing of milk in recent years. Such changes, as better roads and larger tank trucks, have tended to reduce unit hauling costs for both producers and handlers, thereby enabling milk to be moved to the market from farms at increasingly greater distances from the marketing area.

The 1.5-cent rate provided by this decision appropriately reflects the cost of moving milk efficiently under present economic conditions in the market. It is the rate most applicable in Federal orders throughout the United States and is recognized as an appropriate and representative rate for transporting milk to the market. Because of its wide applicability, it will insure a reasonable alignment of prices between this and other orders at the various locations at which handlers under the different orders compete.

Uniform prices (except for excess milk) paid to producers supplying plants at which location differentials apply should be adjusted to reflect the value of milk f.o.b. the plant to which delivered. All producers who share in the Class I proceeds in the pool should be in a position to move their milk to the market for Class I use. If a producer chooses to move his milk directly from the farm to a plant with no location differential, he pays the full transportation cost in delivering the milk. Thus, it is appropriate that differences in prices to producers delivering their milk to other plants where location differentials apply reflect a value for the milk at these locations representative of the cost of moving milk from these points to the market for Class I use.

No adjustment should be made in the Class II and Class III prices and in the uniform price of excess milk because of the location of the plant to which the milk is delivered. (It may reasonably be expected that the uniform price for excess milk under this order will approximate the Class III price.) There is little difference in the value of milk for Class II and Class III uses associated with the location of the plant receiving the milk. This is because of the low cost per hundredweight of milk involved in transporting manufactured products and the concentrated products which may be used for Class II and Class III purposes.

To insure that milk will not be moved unnecessarily at producer's expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that, for the purpose of calculating such credit, fluid milk products received from pool plants shall be assigned to any Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and receipts from other order plants and unregulated supply plants which are assigned to Class I. Such assignment would be made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with receipts from the plant with the lowest location adjustment. This sequential assignment of milk will tend to discourage the unnecessary moving of milk between pool plants for other than Class I purposes at the expense of producers and will provide an equitable basis for facilitating the movement of milk between pool plants for Class I purposes.

Use of equivalent prices. If for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator should use a price determined by the Secretary to be equivalent to the price which is required. Including such provision in the order will leave no uncertainty with respect to the procedure which shall be followed in the absence of any price quotations which are customarily used and thereby will prevent any unnecessary interruption in the operation of the order.

(d) *Distribution of the proceeds to producers.* A marketwide equalization pool should be included in the proposed order as a means of distributing to producers the proceeds from the sale of their milk. Such a pool will assure a producer supplying the order market a return based on his pro rata share of the total Class I sales of such market. The "blend" that a producer receives for each month's deliveries will be a price based on the overall utilization of all producer milk received at the pool plants of all regulated handlers during such month.

The uniformity of payments to producers provided under a marketwide pool permits a handler either to maintain a manufacturing operation in his plant to handle the seasonal and daily reserve supplies of milk or to limit the operation at his plant to the handling of milk for Class I purposes only, without affecting the blended prices payable to his producers as against other producers in the market.

The facilities in the various plants in the area for handling producer milk in excess of that needed for Class I purposes vary considerably. While a number of plants in the market are exclusively Class I operations and handle little or no surplus milk, others utilize varying proportions of their supplies for manufacturing purposes. Under these conditions, a marketwide pool in the Georgia marketing area will facilitate the marketing of producer milk. A marketwide pool will make it possible for producer associations to assist in diverting seasonal reserve milk and thus keep producers on the market who are needed to fulfill the year-round requirements of the market. It will assist also in apportioning among all producers the lower returns from reserve milk where otherwise this burden would be placed on individual groups of producers. A marketwide pool will thereby contribute to market stability and the attainment of an adequate and dependable supply of producer milk.

Base and excess plan. A "base and excess" plan should be incorporated in the order and producers paid uniform base and excess prices in each month. Base and excess plans have been widely used in the market for a number of years. Georgia producers are accustomed to them and claim they have worked satisfactorily in the market.

The primary purpose of the proposed base-excess plan is to encourage producers to maintain even production throughout the year. Without some incentive to producers, production normally tends to fluctuate more during the year than handlers' Class I requirements. Georgia producers have found it uneconomic to produce milk for manufacturing uses. They have operated base plans that have resulted in production being closely correlated with the fluid milk needs of the market. As under these plans, the base plan proposed herein would tend to assure that excess production on the part

of some producers would not affect adversely the returns to all other producers on the market.

The base and excess plan herein proposed would establish a base for each producer by dividing his total deliveries to pool plants in the preceding September through January period by 153, the number of days in the 5 months. The base would be computed in this manner only for those producers who delivered to pool plants on not less than 100 days in the 5 months. For the purpose of computing the base of a producer, the number of days included in his milk deliveries would be the number of days of production represented by his deliveries. A single delivery by a producer on an every-other-day delivery basis, for example, would be considered as 2 days' production for the purpose of computing a base.

Producers would establish new bases each year. They would be computed by the market administrator to be effective from March 1 through February of the following year. By March 5 of each year, the market administrator would notify each producer, the handler receiving his milk and the cooperative association of which he is a member of the producer's base.

"Base milk" would mean producer milk received during the month which is not in excess of the producer's base milk multiplied by the number of days of production that such milk was received at pool plants during the month. "Excess milk" would mean producer milk received during the month which is in excess of the base milk received from the producer during the same month.

Class I disposition in the market would first be assigned to base milk. If the aggregate Class I disposition is more than the base milk received from producers in any month, such additional Class I milk would be allocated to excess milk and the excess milk price increased accordingly.

As provided in this decision, location adjustments would be applied to the price paid producers for base milk. Since excess milk will represent principally producer milk classified in Class III to which no location adjustment is applicable, the producer price for excess milk should not be subject to the location adjustment provisions of the order. The producer butterfat differential applicable to the uniform price should be used to adjust the uniform prices for base milk and excess milk.

A producer from whom no milk was received at pool plants in September through January or who made such deliveries on less than 100 days during such months should be assigned a base of 50 percent of his average daily deliveries of producer milk for each month until a base is computed for him on the basis of deliveries of not less than 100 days in the following September–January period. In addition, a producer who had been assigned a base on the basis of deliveries of more than 100 days during the preceding months of September–January should be permitted, in lieu thereof, to receive a base in the same manner as a new producer or a person who shipped less than 100 days in the base-making period.

The rate of 50 percent of deliveries for assigning bases of those producers who are not eligible for a base on the basis of their deliveries in the base-making period is reasonable under the conditions in the market. It is likewise appropriate that a producer who has earned a base be allowed to relinquish his base and receive an assigned base not less than that of a new producer. The proposed 50 percent rate is not so high as to encourage new producers to come on the market at a time that their production is not needed for Class I purposes. Neither is it so low as to discourage a producer who intends to become permanently associated with the market from coming on the market.

If a plant that was a nonpool plant in the preceding September–January period became a pool plant, the dairy farmers supplying that plant should be assigned bases in the same manner as if they had been producers during such period. Their bases would be calculated from their deliveries to that plant in the preceding September–January base-making period. Such a provision, which was proposed by producers, is commonly provided in Federal orders.

To acquire pool plants status under the order, such a plant must dispose of a specified percentage of its receipts on routes in the marketing area or to other pool plants. It is expected that when such a plant becomes a pool plant it will add Class I sales to the pool comparable to such sales in prior periods when it operated as a nonpool plant. It is appropriate, therefore, that those dairymen who have been supplying the plant have bases computed for them on the basis of their deliveries to the plant in the base-making period.

The order should provide appropriate rules for the handling of base transfers and for other conditions that arise in connection with the administration of the base and excess plan.

The base earned by a producer by delivering to pool plants on not less than 100 days in the preceding September–January period should be transferable. This will facilitate adjustments by those producers desiring to expand or contract their operations. In addition, it would provide producers with opportunities for more economical production of milk and thereby contribute to the maintenance of an adequate supply of milk for the market. Accordingly, the transferability of bases, as herein provided, would be in the best interest of the public, existing producers and prospective producers.

Under the proposed plan, a Class I base could be transferred only to a person who is currently, or would become by the last day of the month, a producer under the order. Those persons who acquire a priority claim to the market's Class I sales should be in a position to supply milk for the fluid needs of the market.

The amount of base transferred could be in its entirety or an amount of not less than 100 pounds. These limits are administratively practical and should be adequate under the proposed base and excess plan in this market.

A base could be transferred only after the baseholder had notified the market administrator in writing on or before the last day of the month of the transfer of the name of the person to whom the transfer is to be made, the effective date of the transfer and the amount to be transferred. These provisions would insure that there will be no misunderstanding between the parties involved concerning transfers.

If more than one producer ships from a farm, one base should be computed for the farm to be allocated to each producer according to his share in the sale of milk from the farm. Provision should also be made for division of a jointly held base. These provisions will facilitate the operation of the base and excess plan herein proposed.

The first base-forming period under the proposed order is expected to be September 1969 through January 1970. Complete data would be available at the end of that period to compute bases. It would be appropriate, therefore, to delay application of the base and excess provisions of the order until March 1, 1970, when complete and verifiable data are available for determining producers' bases.

Payments to producers. Each handler under the order should pay each producer for milk received from such producer, and for which payment is not made to a cooperative association, at not less than the applicable uniform prices. Provision also is made for partial payments for milk received during the first half of the month.

For milk received during the first 15 days of a month, handlers should make a partial payment to producers at not less than the Class III price for the preceding month. On or before the 15th day of the following month, handlers would be required to pay producers at the applicable uniform prices for milk received in the preceding month, less the partial payment made, and authorized deductions. The above dates for paying producers were proposed by producers and were unopposed at the hearing.

Provision should be made for a cooperative to receive payment for producers' milk which it causes to be delivered to a pool plant. Receiving payment for the milk of its members and the blending of proceeds from the sale of such milk will tend to promote orderly marketing and will assist a cooperative in discharging its responsibilities to its members and to the market.

The Act provides for the payment by handlers to cooperatives for milk delivered by them and permits the blending of all sales from members' milk. The contracts with their members authorize the principal cooperatives in the market to collect for producer deliveries. Therefore, each handler, if requested by an authorized cooperative, would pay it an amount equal to the sum of the individual payments otherwise payable to the producers. Handlers should be required

to make payments to cooperatives for producer milk on or before the day prior to the date payments are due individual producers. This will enable the cooperatives to pay their members by the same time other producers receive payment.

At the time settlement is made for milk received from producers during the month, the handler should furnish each producer (or cooperative association) a supporting statement. This statement should show the pounds and butterfat tests of milk received from such producer, the rate(s) of payment for such milk and a description of any deductions claimed by the handler.

A proposal by producers would require poolplant operators to pay the market administrator at the applicable class prices for all producer milk delivered to their plants. The market administrator, in turn, would distribute such monies to producers either directly or to cooperatives authorized to collect for their members. Although producers claim that their proposal would be advantageous to handlers, handlers opposed it at the hearing.

Producers claim that if handlers were required to pay the market administrator for producer milk as proposed, he would know promptly when a handler is delinquent in his payments for producer milk. In testifying on the benefits of the proposed provisions to handlers, producers claim such provisions would relieve handlers of most of the work involved in preparing producer payrolls and would reduce the number of checks that handlers have to write in paying producers.

Other reasons cited by producers for having the market administrator pay producers are (1) the handlers' accounting to the pool would be simplified, (2) any misunderstanding or confusion involving payments by handlers to, and their withdrawing of monies from, the producer-settlement fund would tend to be dispelled, and (3) it would insure more prompt collection of monies due producers and would permit the market administrator to institute action more promptly than otherwise in the collection of such payments in default.

It was not established how this proposed method of payment would insure a more prompt payment for milk, as producers contend. Regardless of the payment system used, handlers need a reasonable time each month to file their reports with the market administrator. Likewise, the market administrator must, in turn, have adequate time to compute the uniform prices. The date for producer payments provided in this decision are the earliest feasible in view of the necessary functions of reporting and price computations.

There is no assurance that the producers' proposed method of payment would reduce the risk of loss to producers from a handler's failure to meet his obligations to the marketwide pool. The method of payment producers proposed could not assure that a handler would not go out of business or that he would always remit his full obligation to the pool in the manner required. When it is necessary to use enforcement procedures authorized by the Act to collect proceeds to producers, this may be done under the method of payment herein provided.

Handlers stated that they prefer to pay their own producers. Having the market administrator pay producers, handlers contend, would unnecessarily add an additional party to the transaction between them and their producers in settling for producer deliveries. The producers' claim, that the proposed provision could be economically advantageous to handlers because it would eliminate some work in the preparation of producers' payrolls, was denied by handlers.

The record evidence does not establish that conditions in this market at the present time justify adopting a procedure requiring handlers to pay the market administrator the full class value of their producer milk receipts and for the market administrator to pay producers. In view of this fact and in view of the opposition of the handlers, who would be significantly affected by it, the proposal is denied.

Producer-settlement fund. All producers will receive payment at the rate of the applicable marketwide uniform prices each month. Because the payment due from each handler for producer milk at the applicable class prices may be more or less than he is required to pay directly to producers, a method of equalizing this difference is necessary. A producer-settlement fund should be established for this purpose. A handler whose obligation for producer milk received during the month is greater than the amount he is required to pay producers for such milk at the applicable uniform prices would pay the difference into the producer-settlement fund and each handler whose obligation for producer milk is less than the applicable uniform price values would receive payment of the difference from the fund. Provision for the establishment and maintenance of the producer-settlement fund as set forth in the attached order is similar to that contained in other Federal orders with marketwide pools.

For efficient functioning of the producer-settlement fund, a reasonable reserve should be set aside at the end of each month. This is necessary to provide for such contingencies as the failure of a handler to make payment of his monthly billing to the fund or the payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than 4 nor more than 5 cents per hundredweight or producer milk in the pool for the month.

Any payments on partially regulated milk received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby be distributed to all producers on the market.

Marketing services. Provisions should be made in the order for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. If a cooperative association is performing such services for its member-producers and is approved for such activity by the Secretary, the market administrator will accept this in lieu of his own service.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to the other provisions of the order. There are no payments to producers to verify on such milk and, therefore, no need to provide the same marketing services as are provided other producers.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producer deliveries reported by the handler are accurate.

An additional phase of the marketing service program is to furnish producers with correct market information. Efficiency in the production, utilization, and marketing of milk will be promoted by providing for the dissemination of current market information on a marketwide basis to producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders such marketing services. Comparison of the number of producers involved and the expected volume of milk with that of other markets indicates that a 6-cent rate is reasonable and should provide the funds necessary to conduct the program. If later experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Expense of administration. Each handler should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's own production) and on other source milk allocated to Class I (except milk so assessed under another Federal order).

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that such cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of

milk received from dairy farmers and on other source milk allocated to Class I milk.

The proposed order provides that a cooperative shall be the handler for its members' milk which it delivers in tank trucks from the farms to pool plants of other handlers. The cooperative is the handler for such milk basically for the purpose of accounting to its individual producers. The milk is producer milk at the plant of the receiving handler and is treated the same as any other direct receipts from producers. Therefore, the pool plant operator who receives the milk should pay the administrative assessment on it. The cooperative, however, would be liable for the administrative assessment for any amount by which the farm weights of the producer milk exceeded the weights at the plant on which the plant operator purchases the milk from the cooperative.

The market administrator must verify by audit the receipts and utilization at pool plants, whether the plant operator buys his milk directly from producers or through a cooperative as a handler. No plant of the cooperative is involved in this particular circumstance. Such cooperative's function as a handler is primarily one of recordkeeping. It is appropriate, therefore, that the pool plant operator receiving such milk pay the administrative assessment on it on the same basis that he pays such assessment for all other producer milk received at his plant.

The order specifies minimum performance standards that must be met to obtain regulated status. The operator of a plant not meeting such standards (i.e., a partially regulated distributing plant) is required to either (1) make specified payments into the producer-settlement fund on route distribution in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of his receipts from dairy farmers computed as though such plant were a fully regulated plant.

The market administrator, in administering an order as it applies to such nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. However, the order is not applicable to such distributor to the same extent as to regulated handlers. Hence, payment of the administrative assessment on his in-area sales would reasonably constitute his pro rata share of the administrative expense.

In the case of unregulated milk which enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. Hence, it is appropriate that the regulated handler be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among handlers distributing milk in the proposed marketing area. However, to prevent duplication, an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

The proposal to require producer-handlers to make payments to the administration fund is denied. As proposed by handlers, producer-handlers would pay an administrative assessment on their Class I sales in the marketing area.

In contrast to other handlers, any expense incurred by the market administrator in connection with producer-handlers would be incidental to administering the order. The market administrator must obtain reports each month from the operators of pool plants and partially regulated distributing plants. From these reports, he would determine the handlers' utilizations and their obligations under the order. After the pool computation, the market administrator would make an extensive audit of each handler's records to verify the reported receipts and utilization of milk from dairy farmers and from all other sources. Thus, the primary function of the market administrator would be to determine a monthly uniform price to be paid to all producers in the market based on the reports of the handlers whose milk is priced under the order.

Under the proposed order, producer-handlers would be exempt from the pooling and pricing provisions of the order and would have no obligation to the producer-settlement fund. A producer-handler must make reports to the market administrator only at such time and in such manner as the market administrator may prescribe. Periodic reports submitted to the market administrator would keep him apprised that the several such operations in the market are bona fide producer-handlers and continue to qualify for exemption from the pricing and pooling provisions of the order.

Interest payments on overdue accounts. Provision is made for the payment of interest on amounts due to the market administrator for each month or portion thereof that such obligation is overdue.

Prompt payment of amounts due to the market administrator is essential to the operation of order provisions. Interest charges will encourage payment of amounts due on or before the specified date. The rate provided herein is reasonable to compensate for the cost of borrowing money in accord with normal business practices.

Administrative provisions. Provisions should be included in the order with respect to the administrative steps necessary to carry out the proposed regulation.

In addition to the definitions discussed earlier in this decision, which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term denotes the same meaning. Such terms as are defined in the attached order are common to many other Federal milk orders.

Market administrator. Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of such office.

Records and reports. Provision should be included in the order requiring handlers to maintain adequate records of their operations and to make reports necessary to establish classification of producer milk and payments due therefor. Such reports are necessary for the computation of the uniform prices and determination of each plant's continuing status under the order. The maintenance of adequate records is necessary to enable the market administrator to verify receipts and utilization as reported by the handlers and to verify that the several financial obligations arising under the order are fully discharged.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to veryify all payments required under the orders.

Detailed reports to the market administrator and complete records available for his inspection by all handlers would be used to determine whether the plants of such handlers qualify as pool plants. Reports of handlers operating nonpool plants from which fluid milk products are distributed in the marketing area would also be used by the market administrator to compute the amounts payable to the producer-settlement fund on such unpriced milk.

A cooperative association having authority to market milk for member producers should have available to it information on the use of such milk by individual handlers in order that member milk may be directed to those handlers needing Class I milk. This will promote orderly marketing by enabling the efficient allocation among handlers of available milk supplies, permit the market to be serviced with smaller reserve supplies and assist producers in maximizing their returns. A provision therefore should be included to authorize the market administrator to provide this information when it is requested by such an

association. For the purpose of this report, the utilization of member milk in each handler's plant would be prorated to each class in the same ratio as all producer milk is allocated to each class during the month.

It is necessary that handlers retain records to prove the utilization of milk and that proper payments were made therefor. Since books and records of all handlers cannot be completely audited immediately after receipt of the milk, it becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain books and records and on the period of time in which obligations under the orders shall terminate. Provision made in this regard is identical in principle with the general amendment (made to all milk orders which were in operation on July 30, 1947) following the Secretary's decision of January 26, 1949 (14 F.R. 444). That decision, covering the retention of records and limitation of claims, is equally applicable in this situation and is adopted as a part of this decision.

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

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

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

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

Recommended marketing agreement and order. The following order regulating the handling of milk in the Georgia 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 proposed order.

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DEFINITIONS

§ 1007.1 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.).

§ 1007.2 Secretary.

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

§ 1007.3 Department.

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

§ 1007.4 Person.

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

§ 1007.5 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"; and

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

§ 1007.6 Georgia marketing area.

The "Georgia marketing area", hereinafter called the "marketing area", means all the territory, including all waterfront facilities connected therewith, geographically within the boundaries of the State of Georgia except the counties of Catoosa, Chattooga, Dade, Fannin, Murray, Rabun, Walker, and Whitfield. The marketing area shall include all territory that is occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments of any part of such territory is within the designated geographical limits of the marketing area.

§ 1007.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, flavored milk, flavored milk drinks,

concentrated milk, cream and mixtures of cream and milk or skim milk.

§ 1007.8 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and which has route disposition in the marketing area during the month.

§ 1007.9 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority for fluid consumption is shipped during the month to a pool plant.

§ 1007.10 Pool plant.

"Pool plant" means a plant specified in paragraph (a) or (b) of this section that is neither an other order plant, a producer-handler plant, nor an exempt distributing plant.

(a) A distributing plant that has route disposition during the month of not less than 50 percent of the fluid milk products approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.16 and that has route disposition in the marketing area during the month of not less than 15 percent of its total Class I disposition during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.16 during the month is shipped as fluid milk products to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator or or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

§ 1007.11 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing or bottling 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, unless such plant is qualified as a pool plant pursuant to § 1007.10 and a greater volume of fluid milk products is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route dispositions in its marketing area.

(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 a distributing plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

§ 1007.12 Route disposition.

"Route disposition" means a delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I pursuant to § 1007.41 (a) (1).

§ 1007.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

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

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; and

(f) A producer-handler.

§ 1007.14 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all fluid milk products handled and the operation of the processing and packaging business are his personal enterprise and risk.

§ 1007.15 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act or the operator of an exempt distributing plant, who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is physically received at a pool plant or diverted pursuant to § 1007.16 from a pool plant to a nonpool plant. "Producer" shall not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

§ 1007.16 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1007.13(d): *Provided,* That if the milk received at a pool plant from a handler pursuant to § 1007.13(d) 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 handler pursuant to § 1007.13(d) at the location of the pool plant;

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the plant to which diverted;

(2) Not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(4) A cooperative association may divert for its account only the milk of member producers: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received from member producers at all pool plants during the month shall not be producer milk;

(5) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant during the month from producers who are not

members of a cooperative association shall not be producer milk; and

(6) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (4) and (5) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk; or

(c) Diverted from a pool plant to an other order plant if a Class III classification (or its equivalent) is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order. The conditions described in subparagraphs (1) through (6) of paragraph (b) of this section shall apply to this paragraph as if set forth fully herein.

§ 1007.17 Other source milk.

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

(a) Fluid milk products from any source except:

(1) Producer milk; and

(2) Fluid milk products from pool plants;

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1007.33.

§ 1007.18 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other millk before entering a plant. A reload point shall not be considered a plant except that a reload operation on the premises of a plant shall be considered a part of the plant operation.

§ 1007.19 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 price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1007.20 Northern Zone.

"Northern Zone" means all the territory in the Georgia counties of Banks, Bartow, Catoosa, Chattooga, Cherokee, Dade, Dawson, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Habersham, Hall, Hart, Jackson, Lumpkin, Madison, Murray, Pickens, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield.

§ 1007.21 Southern Zone.

"Southern Zone" means all the territory in the State of Georgia that is not within the Northern Zone.

MARKET ADMINISTRATOR

§ 1007.25 Designation.

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

§ 1007.26 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1007.27 Duties.

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

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds received pursuant to § 1007.77 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1007.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this order, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicious place in his office and by such other means as he deems appropriate the name of any person who, after the date upon which he is required to perform such acts, has not made either reports pursuant to §§ 1007.30 through 1007.32 or payments pursuant to §§ 1007.70, 1007.74, 1007.76, 1007.77, and 1007.78;

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

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends, and by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The fifth day of each month, the Class I price and Class I butterfat differential, both for the current month;

(2) The fifth day of each month, the Class II and Class III prices and the corresponding butterfat differentials for the preceding month; and

(3) The 11th day of each month the uniform price and the producer butterfat differential, both for the preceding month;

(k) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month;

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1007.45(a)(10) and the corresponding step of § 1007.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received skim milk and butterfat in the form of fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1007.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such reports; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant the classification to which 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

§ 1007.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler (except a handler pursuant to § 1007.13 (e) or (f)) shall report to the market administrator for such month with respect to each plant at which milk is received, reporting in detail and on forms prescribed by the market administrator:

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

(1) Producer milk (or, in the case of handlers pursuant to § 1007.13(b), milk received from qualified dairy farmers);

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

(3) Other source milk;

(4) Milk diverted pursuant to § 1007.16; and

(5) Inventories of packaged and bulk fluid milk products at the beginning and end of the month;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing the respective amounts of skim milk and butterfat in route disposition in the marketing area; and

(c) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1007.31 Producer payroll reports.

(a) Each handler pursuant to § 1007.13 (a), (c), and (d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer at each plant and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payment pursuant to § 1007.62(b) shall report to the market administrator on or before the 20th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering milk that is approved by a duly constituted health authority for fluid consumption shall be reported in lieu of payments to producers.

§ 1007.32 Other reports.

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

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(c) Each handler pursuant to § 1007.13(d) shall report to the market administrator, in detail and on forms prescribed by the market administrator on or before the seventh day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

§ 1007.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products in inventory at the beginning and end of the month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of moneys so deducted.

§ 1007.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1007.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1007.30 shall be classified each month pursuant to the provisions of §§ 1007.41 through 1007.45: *Provided,* That such skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat in producer milk or in other source milk proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1007.41 Classes of utilization.

Subject to the conditions set forth in § 1007.43, the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (c) of this section;

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

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

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce buttermilk except as provided in paragraph (c) of this section.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), eggnog, yogurt, aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and sterilized products in hermetically sealed glass or metal containers.

(2) Skim milk and butterfat in fluid milk products delivered in bulk form to and used at a commercial food processing establishment (other than a milk plant) in the manufacture of bakery products, candy, or packaged food products (other than milk products) for consumption off the premises;

(3) Skim milk and butterfat in fluid milk products and buttermilk disposed of by a handler for livestock feed;

(4) Skim milk and butterfat in fluid milk products and buttermilk dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(5) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;

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

(7) Skim milk and butterfat, respectively, in shrinkage at each pool plant but not in excess of:

(i) Two percent of producer milk (except that received from a handler pursuant to § 1007.13(d));

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1007.13(d): *Provided,* That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

(iii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class III utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class III utilization is requested by the handler; and

(vi) Less 1.5 percent of bulk fluid milk products transferred or diverted to other plants; and

(8) Skim milk and butterfat in shrinkage of other source milk assigned pursuant to § 1007.42(b)(2).

§ 1007.42 Shrinkage.

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

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

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1007.41(c)(7); and

(2) Other source milk exclusive of that specified in § 1007.41(c)(7).

§ 1007.43 Transfers.

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

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

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1007.45(a)(10) and the corresponding step of § 1007.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1007.45(a)(5), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1007.45(a) (9) or (10) and the corresponding steps of § 1007.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant that is not another order plant, a producer-handler plant, or an exempt distributing 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 in Class II or Class III in his report submitted pursuant to § 1007.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any 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 for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants 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 shall be classified as Class III milk to the extent available and the remainder as Class II milk.

(c) As follows, if transferred in the form of a fluid milk product to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated under the other order;

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

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

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

(6) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, skim milk and butterfat allocated to Class I shall be classified as Class I milk and allocations to the other class shall be classified as Class III milk; and

(7) 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 § 1007.41.

(d) As Class III milk, if diverted as producer milk to an other order plant.

(e) As Class I milk, if transferred or diverted in the form of a fluid milk product from a pool plant to an exempt distributing plant.

§ 1007.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1007.30 and compute for each handler the total pounds of skim milk and butterfat in each class: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1007.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1007.44, the market administrator shall determine the classification of producer milk for each handler for 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 III the pounds of skim milk classified as Class III pursuant to § 1007.41(c)(7);

(2) 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;

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

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III pursuant to § 1007.41(c)(6) plus 2 percent of the remainder of such receipts; and

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

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided,* That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

(5) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, 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 appropriate health approval is not established, or which are from unidentified sources;

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

(iv) Receipts of fluid milk products from an exempt distributing plant;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II and Class III (beginning with Class III) but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants, excluding a quantity equal to the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph:

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

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants; and

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

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III milk, the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

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

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (2) and (6)(i) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (6)(ii) of this paragraph;

(i) In series beginning with Class III milk the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1007.22(1) or the percentage that the Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(11) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received from pool plants of other handlers according to the classification of such products pursuant to § 1007.43 (a); and

(12) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. 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.

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section.

Minimum Prices

§ 1007.50 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) at the rate of the Chicago butter price times 0.12 and rounded to the nearest cent. For the purpose of computing Class I prices through April 1969, the basic formula price shall not be less than $4.33.

§ 1007.51 Class prices.

Subject to the provisions of §§ 1007.52 and 1007.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* For the first 12 months from the effective date of this section, the Class I price shall be the basic formula price for the preceding month plus $2.10 and plus 20 cents through April 1969.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus $1.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1007.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1007.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12; and

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

§ 1007.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant in the Northern Zone shall be reduced 15 cents and at a plant that is outside Georgia, north of an east-west line extending from the city hall in Atlanta and more than 100 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from the nearer of the city halls in Atlanta and Augusta, Ga., shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 110 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the nearer of the city halls in Atlanta and Augusta: *Provided,* That the location differential pursuant to this paragraph applicable at a plant in Alabama or South Carolina shall not be more than 15 cents.

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with receipts from the plant with the lowest applicable location adjustment.

§ 1007.54 Use of equivalent price.

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 that is required.

Application of Prices

§ 1007.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1007.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1007.45(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1007.45(a)(12) and the corresponding step of § 1007.45(b) by the applicable class price;

(c) Add the amount obtained from multiplying the difference between the Class III 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 § 1007.45(a)(7) and the corresponding step of § 1007.45(b);

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.45(a)(4) and the corresponding step of § 1007.45(b). If the Class I price for the current month is less than the Class I price for the preceding month the result would be a minus amount;

(e) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1007.45(a)(5) and the corresponding step of § 1007.45(b); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s), from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1007.45(a)(9) and the corresponding step of § 1007.45(b).

§ 1007.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1007.60 for all handlers who filed the reports pursuant to § 1007.30 for the month, except those in default of payments required pursuant to § 1007.74 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1007.71 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1007.72(a);

(d) Add an amount equal to one-half 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 § 1007.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1007.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 20th 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 §§ 1007.30 and 1007.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section.

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1007.60 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 or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1007.60(f) and a credit in the amount specified in § 1007.74(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph. If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1007.30 a similar report for each 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 § 1007.10(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, deduct the sum of:

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

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

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

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

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

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location or at the Class III price, whichever is higher.

PAYMENTS

§ 1007.70 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month; and

(2) On or before the 15th day of each month to each producer for milk received during the preceding month, not less than the uniform price per hundredweight, adjusted pursuant to §§ 1007.71, 1007.72, and 1007.76, subject to the following:

(i) Minus payments made pursuant to subparagraph (1) of this paragraph;

(ii) Less proper deductions authorized in writing by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1007.75 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the day prior to the date on which payments are due individual producers shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the

market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members, shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his discretion through audit or the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1007.71 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1007.45 by the respective butterfat differential for each class and dividing the sum of the resulting amounts by the total pounds of butterfat in producer milk.

§ 1007.72 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 § 1007.53; and

(b) For the purpose of computations pursuant to § 1007.74(b), adjustments pursuant to this section shall be computed according to the location of the nonpool plant from which other source milk was received.

§ 1007.73 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1007.62 and 1007.74 and out of which he shall make all payments from such fund pursuant to § 1007.75: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1007.74 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation pursuant to § 1007.60 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) of other source milk for which a value is computed pursuant to § 1007.60(f).

§ 1007.75 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1007.74(b) exceeds the amount computed pursuant to § 1007.74(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1007.76 Marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) If the Secretary determines that a cooperative association is performing for its members the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such members and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1007.77 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

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

(b) Other source milk allocated to Class I pursuant to § 1007.45(a) (5) and (9) and the corresponding steps of § 1007.45(b); and

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

§ 1007.78 Adjustment of accounts.

When verification by the market administrator of reports or payments of a handler discloses errors resulting in monies due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1007.79 Interest payments.

The unpaid obligation of a handler pursuant to §§ 1007.74, 1007.76, 1007.77, and 1007.78 shall be increased one-half of one percent for each month or portion thereof that such obligation is overdue.

§ 1007.80 Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section,

a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

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

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1007.90 Effective time.

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

§ 1007.91 Suspension or termination.

The Secretary shall suspend or terminate any or all provisions of this part whenever he finds that they obstruct or do not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1007.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property 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 (3) if so directed by the Secretary, execute such assignment 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.

§ 1007.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such other person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1007.100 Separability of provisions.

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

§ 1007.101 Agents.

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

Base and excess plan. The following provisions are necessary to effectuate a base and excess plan in the preceding order. If approved by producers voting individually in a separate referendum, they will be added to the preceding order provisions or substituted for such specified order provisions as indicated below:

1. Sections 1007.22 and 1007.23 are added and read as follows:

§ 1007.22 Base milk.

"Base milk" means producer milk received during the month which is not in excess of the producer's base multiplied by the number of days of production that such milk was received at pool plants in such month: *Provided,* That from the effective date of this order through February 1970 all producer milk received at pool plants shall be base milk.

§ 1007.23 Excess milk.

"Excess milk" means producer milk received during the month which is in excess of the base milk received from the producer during such month.

2. In § 1007.27(j), the following language is substituted for subparagraph (3):

§ 1007.27 Duties.

* * * * *

(j) * * *

(3) The 11th day of each month the uniform prices pursuant to §§ 1007.61 and 1007.61a and the producer butterfat differential, all for the preceding month.

* * * * *

3. In § 1007.30(a), the following language is substituted for subparagraph (1):

§ 1007.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(1) Producer milk (or, in the case of handlers pursuant to § 1007.13(b), milk received from qualified dairy farmers), including the total quantities of base milk and excess milk;

* * * * *

4. In § 1007.31, the following language is substituted for paragraph (a):

§ 1007.31 Producer payroll reports.

(a) Each handler pursuant to § 1007.13 (a), (c), and (d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The total pounds of milk received from such producer indicating the pounds of base milk and the pounds of excess milk;

(3) The days for which milk was received from such producer;

(4) The average butterfat content of such milk; and

(5) The net amount of such handler's payment, together with the prices paid and the amount and nature of any deductions.

* * * * *

5. Section 1007.61a is added and reads as follows:

§ 1007.61a Computation of uniform price for base milk and excess milk.

The market administrator shall compute uniform prices for base milk and excess milk each month as follows:

(a) Determine the aggregate amount of producer milk in each class included in the computation pursuant to § 1007.61 and the hundredweight of such milk that is base milk and that is excess milk;

(b) Determine the total value of excess milk by assigning such milk in series, beginning with Class III to the hundredweight of milk in each class as determined pursuant to paragraph (a) of this section, multiplying the quantities so assigned by the respective class prices for milk containing 3.5 percent butterfat, and adding together the resulting amounts;

(c) Divide the total value of excess milk in paragraph (b) of this section by the total hundredweight of such milk. The quotient, rounded to the nearest cent, shall be the uniform price for excess milk;

(d) Multiply the total hundredweight of excess milk by the uniform price for excess milk computed pursuant to paragraph (c) of this section;

(e) Multiply the hundredweight of milk specified in § 1007.61(f)(2) by the uniform price for the month;

(f) Subtract the total values arrived at in paragraphs (d) and (e) of this section from the amount resulting from the computations pursuant to paragraphs (a) through (e) in § 1007.61; and

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk determined in paragraph (a) of this section and subtract not less than 4 cents nor more than 5 cents from the price thus computed. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

6. In § 1007.70(a), the following language is substituted for the introductory text of subparagraph (2):

§ 1007.70 Time and method of payment.

(a) * * *

(2) On or before the 15th day of each month to each producer for milk received during the preceding month not less than the applicable uniform prices per hundredweight pursuant to § 1007.61a, adjusted pursuant to §§ 1007.71, 1007.72, and 1007.76, subject to the following:

* * * * *

7. The following language is substituted for § 1007.71:

§ 1007.71 Butterfat differential to producers.

The uniform prices pursuant to §§ 1007.61 and 1007.61a shall be increased or decreased for each one-tenth percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1007.45 by the respective butterfat differential for each class and dividing the sum of the resulting amounts by the total pounds of butterfat in producer milk.

8. In § 1007.72, the following language is substituted for paragraph (a):

§ 1007.72 Location differentials to producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rates set forth in § 1007.53; and

* * * * *

9. The following center heading is added after § 1007.101 and §§ 1007.110, 1007.111, and 1007.112 are added and read as follows:

DETERMINATION OF BASE

§ 1007.110 Base.

The market administrator shall determine a base for each producer whose milk in the immediately preceding months of September through January was delivered to pool plants on not less than 100 days by dividing the total pounds of such producer's deliveries by 153, subject to the following conditions:

(a) For the purpose of computing the base of a producer pursuant to this section, the number of days included in his producer milk deliveries shall be the number of days of production of producer milk;

(b) Any producer who, during the preceding months of September through January, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base in the same mnaner as if he had been a producer during such period, calculated from his deliveries during such September–January period to such plant;

(c) If no milk is received from a producer at a pool plant in September through January or if milk is received on less than 100 days during such months, the base of such producer shall be 50 percent of his average daily deliveries of producer milk for each month until a base is computed for him on the basis of deliveries on not less than 100 days in a subsequent September–January period; and

(d) A producer for whom a base has been established pursuant to this section based on deliveries on not less than 100 days during the preceding months of September through January may, in lieu thereof, by notifying the market administrator in writing prior to March 15, be accorded a base computed pursuant to paragraph (c) of this section.

§ 1007.111 Base rules.

The following rules shall apply in the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base calculated pursuant to § 1007.110 to each producer for whose account producer milk was delivered to pool plants during the months of September through January.

(b) Except for the bases assigned pursuant to § 1007.110 (b), (c), and (d), a base may be transferred in its entirety or in an amount not less than 100 pounds by a person holding such base to any other person effective as of the end of the month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: *Provided*, That if such a base is held jointly, the entire base shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred; and

(c) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to by the partners if written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1007.112 Announcement of established bases.

On or before March 5 of each year the market administrator shall notify each producer, the handler receiving his milk and the cooperative association of which he is a member of the producer's base computed pursuant to § 1007.110. Such base shall be effective from March 1 of such year through February of the following year.

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

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-14102; Filed, Nov. 25, 1968; 8:45 a.m.]

[7 CFR Parts 1070, 1078, 1079]

[Docket Nos. AO 229-A21, AO 272-A16, AO 295-A18]

MILK IN CEDAR RAPIDS-IOWA CITY, NORTH CENTRAL IOWA, AND DES MOINES, IOWA, MARKETING AREAS

Notice of Postponement of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a notice was issued on November 8, 1968 (33 F.R. 16570) giving notice of a public hearing to be held at the Roosevelt Hotel, 200 First Avenue Northeast, Cedar Rapids, Iowa, beginning at 9:30 a.m., local time, on December 3, 1968, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, marketing areas.

Notice is hereby given that the said public hearing is postponed until a date to be announced at a later time.

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

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-14162; Filed, Nov. 25, 1968; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 68-WE-86]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the La Verne, Calif., control zone.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments

as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The hours of operation of the control tower are currently from 0700 to 2300 hours local time daily. It is expected, however, that changes in the hours of operation will be necessary in the future and the use of the NOTAM is proposed to designate these changes when required. The NOTAM will provide an expeditious means of designating the effective hours of the control zone to coincide with the hours of operation of the control tower and eliminate the lengthy rule-making process.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.171 (33 F.R. 2097) the description of the La Verne, Calif., control zone is amended to read as follows:

LA VERNE, CALIF.

Within a 3-mile radius of Brackett Field (latitude 34°05'30" N., longitude 117°47'00" W.), within 2 miles each side of the Pomona VOR 179° radial, extending from the 3-mile radius zone to 3 miles south of the VOR. This control zone shall be effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on November 12, 1968.

LEE E. WARREN,
Acting Chief,
Air Traffic Division.

[F.R. Doc. 68-14178; Filed, Nov. 25, 1968; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-SO-90]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Elizabeth City, N.C., control zone and transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

The Elizabeth City control zone described in § 71.171 (33 F.R. 2058) would be redesignated as:

Within a 5-mile radius of CGAS Elizabeth City; within 2 miles each side of the Elizabeth City VOR 195° radial, extending from the 5-mile radius zone to 8 miles south of the VOR; within 2 miles each side of the Elizabeth City VOR 357° radial, extending from the 5-mile radius zone to 8 miles north of the VOR.

The Elizabeth City transition area described in § 71.181 (33 F.R. 2137) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8-mile radius area of CGAS Elizabeth City; within 2 miles each side of the 127° bearing from Weeksville RBN, extending from the 8-mile radius area to 8 miles southeast of the RBN.

The establishment of two VOR instrument approach procedures concurrent with the cancellation of the present TVOR-1 and TVOR-19 instrument approach procedures necessitates altering the control zone by redesignating the extension predicated on the Elizabeth City VOR 194° to the 195° radial, and revoking the extension predicated on the Elizabeth City VOR 350° radial.

Criteria applicable to this airport requires an increase in the transition area basic radius circle from 7 to 8 miles.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)).

Issued in East Point, Ga. on November 14, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 68-14179; Filed, Nov. 25, 1968; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-PC-2]

VOR FEDERAL AIRWAYS AND REPORTING POINTS

Proposed Alteration and Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter and designate VOR Federal airways and reporting points in the Hawaiian Islands.

As parts of this proposal relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director Pacific Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 4009, Honolulu, Hawaii 96812. All communications

received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration proposes the following airspace actions:

1. Realign V–2 Hawaii segment from Honolulu, Hawaii, with a 1,200-foot AGL floor direct to Lanai, Hawaii, with a 1,200-foot AGL standard south alternate segment between these terminals. The realignment would make this a direct route and would provide additional lateral spacing from V–15 Hawaii airway.

2. Realign V–8 Hawaii segment from the intersection of Honolulu 179° T (168° M) and Molokai 262° T (251° M) radials with a 1,200-foot AGL floor direct to Molokai. This realignment would align this airway segment south of its present location so as to provide additional controlled airspace for radar vectoring outbound air traffic from the Honolulu terminal area.

3. Extend V–11 Hawaii airway from the intersection of Upolu Point, Hawaii, 349° T (338° M) and Maui, Hawaii, 080° T (069° M) with a 1,200-foot AGL floor via Maui; intersection of Maui 331° T (320° M) and Molokai 091° T (080° M) radials; Molokai; to the intersection of Molokai 262° T (251° M) and Honolulu 179° T (168° M) radials. This extended airway would provide a one-airway route for turbojets operating between Kahului, Maui, and Kona, Hawaii, and traffic between Maui and Honolulu.

4. Realign V–15 Hawaii segment from South Kauai, Hawaii, with a 1,200-foot AGL floor direct to Honolulu. This realignment will provide a shorter route between the Islands of Oahu and Kauai.

5. Realign V–16 Hawaii segment from Honolulu with a 1,200-foot AGL floor via intersection of Honolulu 179° T (168° M) and Lanai 285° T (274° M) radials; to Lanai. This alignment would permit this segment of V–16 to adjust to the alignment of V–21 Hawaii so as to provide a common segment between Makai, Hawaii, intersection and Lanai.

6. Designate V–21 Hawaii from the intersection of Hilo, Hawaii, 013° T (002° M) and Lanai 107° (096° M) radials, with a 1,200-foot AGL floor via Lanai; to the intersection of Lanai 285° T (274° M) and Honolulu 179° T (168° M) radials. This airway would provide a route for turbojet traffic operating between Lanai and Hilo and serve as a transition route for oceanic traffic between Honolulu and the southern oceanic routes to Los Angeles, Calif.

7. Designate V–22 Hawaii airway to extend from Maui, with a 1,200-foot AGL floor via the intersection of Maui 095° T (084° M) and Hilo 322° T (311° M) radials; to Hilo. This airway would serve turbojet traffic operating between Maui and Hilo.

8. Revoke the Southgate Intersection as a compulsory reporting point. This intersection would be reestablished as an on request DME reporting point.

9. Designate the Makai, Hawaii, Intersection (Intersection Honolulu 179° T (168° M) and Molokai 262° T (251° M) radials) as a compulsory reporting point to replace the Southgate Intersection.

10. Designate the Snapper, Hawaii, Intersection (Intersection Maui 331° T (320° M) and Molokai 091° T (080° M) radials) as a compulsory reporting point.

11. Redesignate the Palmtree Intersection compulsory reporting point as the intersection of Honolulu 119° T (108° M) and Molokai 262° T 251° M) radials.

In conjunction with the foregoing rule making proposals, the following ancillary nonrule-making action is proposed to alter a portion of the northern boundary of Warning Area W–320 to extend from latitude 20°52′00″ N., longitude 157°50′00″ W.; thence to latitude 20°42′-00″ N., longitude 157°01′00″ W., thence along its present established boundary.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510) and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on November 19, 1968.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68–14180; Filed, Nov. 25, 1968; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

ASIATIC FEATHERS

Importation Directly From Singapore; Available Certifications

Notice is hereby given that certificates of origin issued by the Trade Division, Ministry of Finance of the Government of Singapore under procedures agreed upon between that government and the Office of Foreign Assets Control in connection with the Foreign Assets Control Regulations are available as of November 14, 1968 with respect to the importation into the United States directly, or on a through bill of lading, from Singapore of the following additional commodity:

Chicken feathers.

Since certificates of origin are presently available for duck feathers, the certification procedure will henceforth cover "Feathers, chicken and duck."

[SEAL] MARGARET W. SCHWARTZ,
Director,
Office of Foreign Assets Control.

[F.R. Doc. 68-14169; Filed, Nov. 25, 1968; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 5502]

MONTANA

Notice of Proposed Classification

NOVEMBER 19, 1968.

Notice is hereby given of a proposal to classify the lands described below for disposal through public sale procedures as provided by section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171). This publication is made pursuant to the Act of September 19, 1964 (43 U.S.C. 1412).

This proposal has been discussed with local governmental officials and other interested parties. Information derived from these discussions and other sources indicates that these lands meet the criteria of 43 CFR 2410.1-3(e) which authorizes classification of lands "* * * for disposal under any applicable authority where they are found to be * * * not suitable for retention for multiple use management."

Information concerning the lands, including the record of public discussions, is available for study at the Bureau of Land Management District Office, West of Miles City, Post Office Box 940, Miles City, Mont. 59301.

For a period of 60 days from the date of this publication, interested parties may submit comments to the district manager of the Miles City District at the above address.

The lands affected by this proposal are located in Rosebud and Bighorn Counties and are described as follows:

PRINCIPAL MERIDIAN, MONTANA

T. 7 S., R. 41 E.,
Sec. 25, N½, N½SW¼, SE¼SW¼, and SE¼.
T. 8 S., R. 41 E.,
Sec. 2, Lots 1 and 2, SE¼NE¼, and E½SE¼;
Sec. 12, SW¼SW¼;
Sec. 14, SE¼SW¼.
T. 7 S., R. 42 E.,
Sec. 12, NE¼;
Sec. 19, SE¼;
Sec. 24, S½NE¼ and SE¼;
Sec. 25, N½NE¼;
Sec. 27, N½NE¼ and SW¼NE¼;
Sec. 30, lots 1, 2, 3, and 4, and E½W½;
Sec. 31, lot 1 and NE¼NW¼;
Sec. 35, S½SE¼.
T. 8 S., R. 42 E.,
Sec. 5, lots 2 and 3;
Sec. 6, lot 7;
Sec. 19, lots 2, 3, and 4;
Sec. 30, lots 1 and 2.
T. 7 S., R. 43 E.,
Sec. 7, lots 1 and 2;
Sec. 17, SE¼NE¼ and E½SE¼;
Sec. 18, lots 2, 3, and 4, E½NW¼, and NE¼SW¼;
Sec. 19, lots 1, 2, 3, and 4;
Sec. 21, E½SW¼;
Sec. 29, N½NE¼, SE¼NE¼, W½SE¼, and SE¼SE¼;
Sec. 30, lot 1, NE¼NW¼, and SE¼SW¼;
Sec. 31, NE¼NW¼;
Sec. 32, E½NE¼;
Sec. 33, W½NW¼ and SE¼NW¼.

The areas described aggregate 3,644.43 acres.

EUGENE H. NEWELL,
Acting State Director.

[F.R. Doc. 68-14163; Filed, Nov. 25, 1968; 8:46 a.m.]

[Oregon 013422, etc.]

OREGON

Order Providing for Opening of Public Lands

NOVEMBER 19, 1968.

1. In exchanges of lands made under provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g), as amended, the following described lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

Minerals in the following lands were reconveyed to the United States:

[Oregon 013422]

T. 37 S., R. 3 W.,
Sec. 22, W½NW¼ and NW¼SW¼.

[Oregon 014539]

T. 30 S., R. 41 E.,
Sec. 13, S½SE¼.

T. 30 S., R. 42 E.,
Sec. 17, NE¼, S½NW¼, and S½;
Sec. 29;
Sec. 33, All that portion thereof lying north and west of the following described line, to-wit: Beginning at a point 1,200 feet east of the southwest corner of sec. 33; thence N. 35°54' E., 1,020.2 feet; thence N. 1°02' W., 845.7 feet; thence N. 41°26' E., 1,289.1 feet; thence N. 59°10' E., 861.4 feet; thence N. 13°40' E., 721.8 feet; thence N. 31°28' E. to a point on the east line of the NW¼NE¼ of said sec. 33; thence north along said east line to the north line of sec. 33.

[Oregon 015931]

T. 13 S., R. 40 E.,
Sec. 7, SE¼SE¼;
Sec. 8, S½SW¼;
Sec. 17, N½NW¼, SW¼NW¼, and N½SW¼;
Sec. 18, NE¼, SE¼SW¼, and N½SE¼;
Sec. 19, lots 1, 2, 3, and 4, and E½W½;
Sec. 29, W½SW¼;
Sec. 30, E½.

[Oregon 016218]

T. 38 S., R. 13 E.,
Sec. 36, NW¼.

[Oregon 016472]

T. 12 S., R. 41 E.,
Sec. 1, N½S½ and SE¼SE¼;
Sec. 2, NE¼SW¼ and N½SE¼.

[Oregon 016606]

T. 35 S., R. 34 E.,
Sec. 7, lots 1 and 2, E½ and E½NW¼.

[Oregon 016742]

T. 30 S., R. 45 E.,
Sec. 23, NW¼NW¼.
T. 31 S., R. 45 E.,
Sec. 15, NW¼SE¼.

[Oregon 016752]

T. 37 S., R. 23 E.,
Sec. 33, SE¼SW¼.
T. 38 S., R. 23 E.,
Sec. 5, lot 1 and SE¼NE¼.

[Oregon 017304]

T. 33 S., R. 30 E.,
Sec. 22, S½NE¼, E½SW¼, and SE¼.
T. 35 S., R. 32 E.,
Sec. 3, NW¼SE¼ and S½SE¼;
Sec. 10, N½NE¼, SE¼NE¼, and E½SE¼;
Sec. 11, W½NW¼;
Sec. 14, W½SW¼;
Sec. 15, E½E½.

[Oregon 017309]

T. 39 S., R. 41 E.,
Sec. 1, NE¼SE¼.
T. 38 S., R. 42 E.,
Sec. 7, NW¼NE¼.

[Oregon 017354]

T. 20 S., R. 35 E.,
Sec. 10, SW¼SE¼;
Sec. 32, S½N½ and SE¼.
T. 21 S., R. 35 E.,
Sec. 5, lots 1 and 2;
Sec. 16.

[Oregon 017371]

T. 14 S., R. 33 E.,
Sec. 7, NE¼SE¼.

[Oregon 017834]

T. 33 S., R. 41 E.,
Sec. 19, lot 1 and NE¼NW¼.
T. 32 S., R. 42 E.,
Sec. 31, NE¼SE¼.

[Oregon 017841]

T. 29 S., R. 29½ E.,
Sec. 36, SE¼SE¼.
T. 19 S., R. 43 E.,
Sec. 36, S½NW¼, N½SW¼, and SE¼.

[Oregon 017971]

T. 18 S., R. 41 E.,
Sec. 36, N½NW¼.
T. 19 S., R. 42 E.,
Sec. 17.

[Oregon 018093]

T. 17 S., R. 42 E.,
Sec. 33, NE¼SW¼ and W½SE¼.
T. 18 S., R. 42 E.,
Sec. 3, SW¼SW¼;
Sec. 4, SE¼SE¼;
Sec. 6, lot 1.

[OR 3]

T. 31 S., R. 32¾ E.,
Sec. 3, lots 7 and 8.

[OR 46]

T. 29 S., R. 29¾ E.,
Sec. 34, lots 2, 3, and 4;
Sec. 35, S½N½ and W½SW¼.
T. 30 S., R. 29¾ E.,
Sec. 2, lot 4, SW¼NW¼, and NW¼SW¼;
Sec. 3, lots 1, 2, 3, and 4.

Minerals in the following lands were not reconveyed to the United States:

[Oregon 014494]

T. 38 S., R. 26 E.,
Sec. 36, NE¼NE¼, W½W½, SE¼SW¼, and SW¼SE¼.
T. 39 S., R. 26 E.,
Sec. 11, NW¼NW¼;
Sec. 23, SW¼NE¼;
Sec. 36, E½ and E½W½.
T. 39 S., R. 27 E.,
Sec. 8, NE¼SW¼;
Sec. 17, NW¼NE¼.
T. 36 S., R. 28 E.,
Sec. 3, S½SW¼ and SW¼SE¼;
Sec. 11, E½NE¼, N½NW¼, SW¼NW¼, NE¼SW¼, S½SW¼, and W½SE¼;
Sec. 13, NE¼NE¼, S½NE¼, NE¼NW¼, S½NW¼, NE¼SW¼, S½SW¼, W½SE¼, and NE¼SE¼;
Sec. 15, NE¼, N½NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 23, N½N½, SW¼NE¼, S½SE¼NE¼, SE¼NW¼, NE¼SW¼, S½NW¼SW¼, N½SW¼SW¼, N½SE¼SW¼, S½NE¼SE¼, N½NW¼SE¼, SW¼SE¼, and N½SE¼SE¼;
Sec. 25;
Sec. 27, E½, NW¼, NW¼SW¼, and S½SW¼;
Sec. 35, N½, SW¼, and S½SE¼.
T. 37 S., R. 28 E.,
Sec. 1, lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 3, lots 1 and 4, SE¼NE¼, SW¼NW¼, and SE¼;
Sec. 5, lots 1, 2, 3, and 4 and S½N½;
Sec. 11, NE¼NE¼.

[Oregon 016741]

T. 39 S., R. 45 E.,
Sec. 36, SW¼NE¼.
T. 39 S., R. 46 E.,
Sec. 18, NE¼NW¼.
T. 40 S., R. 46 E.,
Sec. 3, lots 3 and 4;
Sec. 4, NE¼SW¼.

[Oregon 016752]

T. 37 S., R. 23 E.,
Sec. 33, S½SE¼.

[Oregon 017304]

T. 35 S., R. 31 E.,
Sec. 4, lots 3 and 4, S½NW¼, and SW¼;
Sec. 5, lots 1 and 2, S½NE¼, and SE¼.

[Oregon 017308]

T. 9 S., R. 46 E.,
Sec. 21, NE¼NE¼, portion lying south of Brownlee backwater on Powder River;
Sec. 22, SE¼NW¼, E½SW¼, SE¼, portion lying south of Brownlee backwater on Powder River;
Sec. 23, SE¼SW¼, SW¼SE¼, portions lying east of the Brownlee backwater on Powder River;
Sec. 26, NE¼, N½SE¼, portions lying east of the Brownlee backwater on Powder River;
Sec. 27, N½NE¼ and NE¼NW¼.

[Oregon 017604]

T. 7 S., R. 40 E.,
Sec. 26, NE¼SW¼ and SW¼SW¼;
Sec. 27, SE¼SE¼.
T. 8 S., R. 41 E.,
Sec. 6, S½SE¼;
Sec. 7, NE¼.

[Oregon 017836]

T. 9 S., R. 41 E.,
Sec. 8, lot 7, SE¼SW¼, and SE¼;
Sec. 16, E½NW¼ and N½SW¼;
Sec. 17, N½NE¼, N½NW¼, and SW¼NW¼;
Sec. 18, NE¼, NE¼NW¼, and N½SE¼.

[Oregon 017837]

T. 17 S., R. 45 E.,
Sec. 15, S½NE¼, NW¼SE¼, and S½SE¼.

[Oregon 017838]

T. 17 S., R. 45 E.,
Sec. 2, S½SE¼;
Sec. 24, NW¼NW¼.

[Oregon 017980]

T. 27 S., R. 32 E.,
Sec. 16.

[OR 829]

T. 32 S., R. 26 E.,
Sec. 16, W½;
Sec. 36, N½ and SE¼.
T. 28 S., R. 30 E.,
Sec. 11, N½SE¼;
Sec. 12, S½NW¼ and SW¼.
T. 35 S., R. 34 E.,
Sec. 11, SW¼SW¼;
Sec. 17, W½;
Sec. 29, W½ and SE¼.
T. 35 S., R. 35 E.,
Sec. 33, SE¼.

[OR 1920]

T. 28 S., R. 13 E.,
Sec. 16, E½SE¼.

The areas described aggregate 20,070.72 acres.

2. The lands are for the most part in widely scattered parcels distributed throughout southeastern Oregon. They are generally arid or semiarid in character, and are not suitable for farming. The lands identified by serial number Oregon 013422 are located in Jackson County in southwestern Oregon. They are in an area of moderate rainfall with yearly precipitation averaging 25 inches, and support a growth of young Douglas-fir and other associated minor species, and are not suitable for farming.

3. At 10 a.m. on December 26, 1968, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 26, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands in which minerals were conveyed to the United States will be open to location under the United States mining laws at 10 a.m. on December 26, 1968. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Post Office Box 2965, Portland, Oreg. 97208.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 68-14152; Filed, Nov. 25, 1968; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

GEORGIANA STOCK YARDS, INC., ET AL.

Proposed Posting of Stockyards

The Acting Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Georgiana Stock Yards, Inc., Georgiana, Ala.
M.F.A. Livestock Association, Inc.—Chillicothe Concentration Point, Chillicothe, Mo.
M.F.A. Livestock Association, Inc.—Princeton Concentration Point, Princeton, Mo.
M.F.A. Livestock Association, Inc.—Salisbury Concentration Point, Salisbury, Mo.

Notice is hereby given, therefore, that the said Acting Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Acting Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S.

Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 19th day of November 1968.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 68-14189; Filed, Nov. 25, 1968; 8:48 a.m.]

MONTGOMERY COUNTY AUCTION ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Original name of stockyard, location, date of change in name*
ARKANSAS	
Montgomery County Auction, Mount Ida, June 13, 1957.	Montgomery County Auction, Inc., Oct. 1, 1968.
GEORGIA	
Mitchell County Livestock Company, Pelham, May 13, 1959.	Mitchell County Livestock Market, Inc., Nov. 10, 1968.
IOWA	
Farmers Livestock Market Co., Ankeny, Apr. 29, 1957.	Ankeny Sales, Apr. 24, 1968.
Harlan Auction Company, Inc., Harlan, May 19, 1959.	Harlan Auction Co., Aug. 12, 1968.
Northwood Sales Co., Northwood, May 19, 1959.	Northwood Livestock Sales Co., Dec. 31, 1966.
KANSAS	
Beverly Stockyards Company, Salina, Jan. 21, 1936.	Beverly Stockyards Co., Inc., Aug. 1, 1968.
NEW YORK	
Southern Tier Livestock Market, Inc., Whitney Point, Sept. 20, 1961.	Empire Livestock Marketing Cooperative, Inc., Mar. 1, 1968.
TEXAS	
Vernon Stockyards Co., Inc., Vernon, May 22, 1950.	Vernon Stockyards Company, Oct. 16, 1968.

Done at Washington, D.C., this 20th day of November 1968.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 68-14190; Filed, Nov. 25, 1968; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

BATTELLE MEMORIAL INSTITUTE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 68-00636-50-02000. Applicant: Battelle Memorial Institute, Pacific Northwest Laboratory, Post Office Box 999, Richland, Wash. 99352. Article: Sonic anemometer thermometer, Model PAT-311-1. Manufacturer: Kaijo Denki Co., Ltd., Japan. Intended use of article: The article will be used for precise measurement of the turbulent character of the atmosphere to determine correlation between temperature fluctuation and wind fluctuation for the same point in the atmosphere as well as correlations between wind fluctuation components at a number of points. Comments: No comments have been received regarding this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was available to the applicant within a reasonable delivery time. Reasons: The foreign article is a sonic thermometer which is intended to be used with a research program that involves the variations of wind velocity concomitantly with the variation in temperature. In order to achieve the objectives of the research program, it is necessary that the foreign article be installed on location and ready for use as of September 1, 1968. The applicant was awarded the contract for the research program on April 25, 1968. The only known comparable domestic instrument is manufactured by the Cambridge Systems, Inc. (Cambridge), which quoted a delivery time of 210 days, whereas the quoted delivery time for the foreign article was 120 days. In view of the necessity for beginning the taking of measurements of wind velocity and temperature by September 1, 1968, we find that the 210 days quoted by Cambridge to be excessive.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured and available within a reasonable delivery time to the applicant.

CHARLEY M. DENTON,
Assistant Administrator For Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-14147; Filed, Nov. 25, 1968; 8:45 a.m.]

NORTH CAROLINA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 68-00624-01-28200. Applicant: North Carolina State University, 107 1911 Building, Raleigh, N.C. 27607. Article: Electron spin resonance instrument, Model JES-ME-3X. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for specific projects involving:

(1) The analytical determination of free radical intermediates in gas samples produced by the photolysis of hexafluoroacetone in the presence of various halogens, hydrogen halides, and water additives.

(2) Fundamental studies of the wave functions for polycyclic alternate hydrocarbon cation and anion radicals necessitate the determination of high resolution spectra for these compounds since the unpaired electron wave function for these molecules is delocalized over many carbon atoms and shows a large number of proton hyperfine lines in a relatively small range of magnetic fields.

(3) The electron paramagnetic resonance hyperfine structure for radicals of trithioorthoformate and tetrathioorthocarbonate esters and the conjugating effect of sulfur in these radicals will be determined.

Comments: Comments have been received from two domestic manufacturers. Comments from Varian Associates (Varian) alleged inter alia that "* * * an Electron Spin Resonance Instrument of equivalent scientific value * * * is being manufactured in the United States." (Letter from Varian dated July 24, 1968, par. 2.) Comments from Ventron Instruments Corp., Magnion Division (Magnion) alleged inter alia that "Magnion offers an electron spin resonance system of equivalent or better scientific value for the purposes for which the above referenced article is intended to be used." (Letter from Magnion dated July 18, 1968, par. 1.) Magnion's comments however, did not comply with section 602.4(c) of the regulations because: (1) Magnion did not identify a specific instrument of its manufacture which the company considered of equivalent scientific value to the foreign article for the intended purposes; (2) Magnion did not provide pertinent specifications and descriptions of the pertinent characteristics of the instrument alleged to be of equivalent scientific value; and (3) Magnion did not provide the basis for its allegation by comparing the characteristics and specifications considered by the applicant with the similar pertinent characteristics and pertinent specifications of the Magnion product. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: For the purposes for which the foreign article is intended to be used the applicant requires an instrument equipped with a cavity that will allow irradiation at liquid nitrogen temperature along the sample access stacks and detection of the emission at right angles to this excitation. This arrangement will prevent the detection of spurious radiation from the exciting lamp and will enable the emission signal to be collected with maximum efficiency. The foreign article is equipped with a cavity which provides for detection of the emission at right angles to the incident radiation at liquid nitrogen temperatures. We are advised by the National Bureau of Standards (NBS) (memorandum dated Aug. 26, 1968) that the domestic instrument considered by NBS to be comparable to the foreign article for the applicant's intended purposes is the Electron Spin Resonance Spectrometer manufactured by Varian. Varian has recommended the Model V-4535 cavity for the intended purposes of the applicant. National Bureau of Standards in the above-cited memorandum advised that the standard cavities available from Varian, including the V-4535, will not allow the applicant to perform all the proposed experiments. National Bureau of Standards further advised that emission cannot be detected at right angles to the incident radiation in the unaltered V-4535 cavity because of the standard Varian Model 4535 cavity body is solid at right angles to the sample access ports and this detection capability of the foreign article is pertinent.

For this reason we find that the Varian Electron Spin Resonance Spectrometer is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-14149; Filed, Nov. 25, 1968; 8:45 a.m.]

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 68-00572-65-46040. Applicant: State University of New York, Stony Brook, N.Y. 11790. Article: Electron microscope, Model EM 300. Manufacturer: N.V. Philips Cloeilampenfabrieken, The Netherlands. Intended use of article: The article will be used for research and graduate studies which include the investigation of physical properties of materials and experimental work closely related to courses in surfaces and interfaces, advanced topics in solids, advanced techniques of materials research, and the physical properties of materials. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was purchased by the applicant. Reasons: The foreign article provided a guaranteed resolution of 5 angstroms. The only domestic electron microscope available prior to July 1, 1968 was the Model EMU-4 which was manufactured by the Radio Corporation of America (RCA). The RCA Model EMU-4 had a guaranteed resolution of 8 angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) The additional resolution of the foreign article is considered pertinent to the purposes for which this article is intended to be used.

For this reason, we find that the RCA Model EMU-4 was not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States and available at the time the applicant placed the order for the foreign article.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-14150; Filed, Nov. 25, 1968; 8:45 a.m.]

UNIVERSITY OF HAWAII

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 68-00693-33-46020. Applicant: University of Hawaii, Hawaii Institute of Marine Biology, Post Office Box 1067, Kaneohe, Hawaii 96744. Article: Stereomicroscope, Model M5, with stands and accessories. Manufacturer: Wild Heerburgg Ltd., Switzerland. Intended use of article: The article will be used for scientific research and identification on shrimp anatomy. In the identification of the shrimp, ranging in size from a few millimeters to 10 centimeters, a wide span of magnification is necessary, from examining the gross appearance to distinguishing small and subtle teeth, hair, and sculpturing on the smallest of appendages. Comments: Comments regarding this application were received from one domestic manufacturer. However, since these comments did not conform to §§ 602.3(b) and 602.3(c) of the above-cited regulations, they are being treated as an offer to furnish additional information in accordance with § 602.5(b) of the cited regulations. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the

United States. Reasons: The foreign article provides a built-in camera lucida which permits the image to be projected tridimensionally on a drawing board and the image drawn with all essential details for inclusion in publications embodying the results of the investigations for which the foreign article is intended to be used. One domestic manufacturer—the American Optical Co. (A-O)—produces a stereomicroscope to which a camera lucida may be attached externally to the inclined eyepiece. However, this would require that the drawing board be inclined to the identical angle of the eyepiece, in order to avoid distortion of the image. Moreover, the A-O instrument does not provide the magnification range of the foreign article, which extends from 2.4 to 200 magnifications. The only other comparable domestic stereomicroscope is manufactured by Bausch and Lomb, Inc. (B&L). Although the B&L instrument provides the equivalent range of magnifications, it does not provide either an internal camera lucida or a means for external attachment. In its memorandum dated August 15, 1968, the Department of Health, Education, and Welfare advised that both the internal camera lucida and the range of magnifications are pertinent to the purposes for which the foreign article is intended to be used. For these reasons, we find that neither the A-O nor the B&L stereomicroscopes are of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no instrument or apparatus being manufactured in the United States which provides the required capabilities.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-14148; Filed, Nov. 25, 1968; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Order Setting Date and Place of Reopened and Resumed Hearing

In the matter of Commonwealth Edison Co. (Zion Station Units 1 and 2).

On October 17, 1968, the Atomic Safety and Licensing Board issued an order reopening proceeding providing for the presentation of additional evidence relative to the safety related research and development expected to be undertaken (the programs for the power distribution control (core stability), rod burst and the containment spray research), and the quality assurance and control program.

On November 13, 1968, Comonwealth Edison Co. (Edison), filed documents entitled: "Guide for the Quality Assurance Programs for the Construction of Nuclear Generating Units", "Commonwealth Edison Company's Zion Station Quality Asurance Plan", and "Additional Information Respecting Safety Related Research and Development".

Both Edison and the Staff have indicated that they are ready to proceed to adduce evidence as indicated in the Board's order of October 17, 1968. The Board notes that the Edison documents in reference to the quality assurance and control plans contain provisions indicating what will be contained within the final quality assurance and control program. In the Board's determination of the assigned issue in an uncontested case, i.e., whether the application and the record contain sufficient information to support the findings proposed to be made by the Director of Regulation, the Board is interested in the program which will be available before the manufacture of components and the construction of the facility will be undertaken, and the evaluation of that quality assurance and control program by persons having practical experience in that field.

Wherefore, in accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission: *It is ordered,* That a reopened and resumed hearing in the proceeding shall convene at 9 a.m. on December 10, 1968, in Room 115, Lafayette Building, 811 Vermont Avenue NW., Washington, D.C. 20420.

Issued: November 22, 1968, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[F.R. Doc. 68-14211; Filed, Nov. 25, 1968; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17167; Order 68-11-87]

ACME AIR CARGO, INC., ET AL.

Order Regarding Accessorial Cargo Services

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of November 1968.

In the matter of an air carrier agreement concerning accessorial cargo services, Docket 17167, Agreement CAB No. 19854.

By filing of October 6, 1967, 12 air freight forwarders[1] have submitted an agreement which provides that:

a. A charge will be assessed for the preparation of a "U.S. Shippers Export Declaration," U.S. Department of Commerce Form 7527-V; the carriers will enter certain information on such document when otherwise prepared by the shipper.

b. A charge will be made for the opening/closing of packages for customs inspection when performed by the carrier.

c. A charge will be made for the preparation of a "Transit Air Cargo Manifest," U.S. Customs Form 7509, or a "Transportation Entry," U.S. Customs Form 7512, when diversion of shipment from one Customs Port to another is requested by the shipper, consignee, or his agent.

d. A charge will be made for copies in excess of one of "Carriers Certificate and Release Order," U.S. Customs Form 7529.

e. "In-Bond" traffic will be accorded 2 calendar days free storage following the day of arrival; outbound shipments will be accorded no free storage beyond the calendar day of receipt.

f. A charge will be made for delivery of documents by the carrier (other than by mail) off its premises and apart from the shipment.

g. A charge will be made for separate customs releases of portions of a shipment, *i.e.*, disassembly service for multipiece shipments.

The forwarder agreement in these respects is identical to a direct air carrier agreement on the same subject, which the Board recently proposed to approve, subject to receipt of further comments.[2]

These agreements have been reached as a result of carrier discussions relating to accessorial cargo services, as authorized by the Board in Order E-24599, dated January 3, 1967, and subsequent orders.[3] As required by the Board in its orders authorizing the discussions, the carriers advised interested shippers in advance of final deliberation as to proposals under consideration, and such shippers were given opportunity to comment upon the proposals, both in writing and in person. In addition, meeting notices and minutes on all meetings have been provided to shippers and filed with the Board.

No objections to the forwarders' agreement have been filed with the Board.

Although the agreement tends to restrain competition in the limited area of cargo handling and documentation services, the agreed bases do not appear unreasonable, per se, and may serve more equitably to allocate the costs of such accessorial services to the particular shippers who use them, instead of such costs being borne by all shippers. Such result should contribute to the sound development of airfreight transportation in the public interest.

On the basis of the foregoing considerations, the Board tentatively finds that the instant agreement is not in violation of the Federal Aviation Act or adverse to the public interest. Therefore, the Board has tentatively decided to approve the agreement. Before reaching a final decision, however, we shall afford interested persons a period of 30 days within which to file comments in support of or in opposition to the Board's proposed approval.

[1] Acme Air Cargo, Inc.; Add Airfreight Corp.; Airborne Freight Corp.; American Express Co.; Direct Air Freight Corp.; Eagle Air Dispatch, Inc.; Emery Air Freight Corp.; Imperial Air Freight Service, Inc.; International Customs Service, Inc.; Pacific Air Freight, Inc.; Shulman, Inc.; and WTC Air Freight.

[2] Order 68-10-105, dated Oct. 18, 1968; Agreement CAB No. 19846.

[3] Docket 17167: Order E-24729, dated Feb. 8, 1967; Order E-25146, dated May 15, 1967; and Order E-25520, dated Aug. 11, 1967.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof:

It is ordered, That:

1. The Board proposes to approve Agreement CAB No. 19854;

2. Interested persons be and they hereby are afforded a period of 30 days from the date of service of this order within which to file comments in support of or in opposition to the Board's tentative action herein.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-14183; Filed, Nov. 25, 1968; 8:47 a.m.]

[Docket No. 19330]

PIEDMONT CHICAGO ENTRY CASE

Notice of Hearing

Notice hereby is given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on December 9, 1968, at 10 a.m., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on September 12, 1968, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 20, 1968.

[SEAL] HERBERT K. BRYAN,
Hearing Examiner.

[F.R. Doc. 68-14185; Filed, Nov. 25, 1968; 8:47 a.m.]

[Docket No. 20400; Order 68-11-76]

TRANS CENTRAL AIRLINES

Order To Show Cause

Issued under delegated authority on November 19, 1968.

By petition filed October 22, 1968, Trans Central Airlines (Trans Central), requests the Board to establish final multielement service mail rates for the transportation of mail between Denver and Trinidad, Colo.; Denver, Colo. and Raton, N. Mex.; and between Raton and Albuquerque, N. Mex. No service mail rates are currently in effect for this service by Trans Central. Trans Central states that it is presently operating scheduled services between Denver, Colo., and Albuquerque, N. Mex., via Pueblo and Trinidad, Colo., and Raton and Santa Fe, N. Mex., as an air taxi operator under title IV of the Federal Aviation Act;[1] that it will use Cessna 402 aircraft for this service; and that there are no competing or other certificated carriers operating on the segments for which a rate is requested.

On October 30, 1968, the Postmaster General filed an answer giving qualified support to Trans Central's petition. He noted that, although the petitioner requested establishment of the multielement service mail rate, the "agreed rates" cited in the subject petition are incorrect.[2] They are merely the yields which would result from application of the provisions of the domestic service multielement rate formula established by Order E-25610, August 28, 1967. The Postmaster General supports Trans Central's petition to the extent it is understood as requesting the Board to permit the carriage of air mail according to the rates and other provisions of Order E-25610, as amended.[3] He states further that there are no certificated carriers operating on the segments involved in the petition and that the proposed service will improve air mail service for the points involved.

In its petition Trans Central indicates that it is currently providing scheduled service between Denver and Albuquerque, via Pueblo and Trinidad, Colo., and Raton and Santa Fe, N. Mex. Although certificated air carrier service is available between Denver and Albuquerque, Denver and Pueblo, Denver and Santa Fe, Santa Fe and Pueblo, Santa Fe and Albuquerque, and Pueblo and Albuquerque, Trans Central does not seek to provide mail service between these points, and the service mail rates proposed herein shall not be construed by any combination thereof as authorizing Trans Central to engage in the transportation of mail in any market served by an air carrier certificated by the Board.

Under these circumstances it appears that the proposed services of Trans Central will improve air mail services between the points where certificated carrier services are not available. The Board, therefore, finds it in the public interest to fix and determine the fair and reasonable rates of compensation to be paid to Trans Central by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Denver and Trinidad, Colo.; Denver, Colo., and Raton, N. Mex.; and between Raton and Albuquerque, N. Mex. Upon consideration of the petition and other matters officially noticed, the Board proposes to issue an order to include the following findings and conclusions:

1. That the fair and reasonable final service mail rates to be paid to Trans Central Airlines pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Denver and Trinidad, Colo.; Denver, Colo., and Raton, N. Mex.; and, between Raton and Albuquerque, N. Mex., shall be the rates established by the Board in Order E-25610, as amended, and shall be subject to the other provisions of that order;

2. The final service mail rates here fixed and determined are to be paid entirely by the Postmaster General; and

3. These rates shall apply to described mail services of Trans Central Airlines to the extent it is authorized to provide such mail services as an air taxi operator pursuant to the provisions of Part 298 of the Board's economic regulations and shall not apply to segments served by certificated air carriers.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to regulations promulgated in 14 CFR Part 302:

It is ordered, That:

1. All interested persons and particularly Trans Central Airlines and the Postmaster General are directed to show cause why the Board should not publish the final rates specified above as the fair and reasonable rates of compensation to be paid to Trans Central Airlines for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days, after the date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days, after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein;

4. If answer is filed presenting issues for hearing the issues involved in determining the fair and reasonable final rates shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Trans Central Airlines and the Postmaster General.

[1] The air taxi mail services contemplated by this request are also subject to Part 298 of the economic regulations of the Board (14 CFR Part 298).

[2] The petition cited these rates as follows between:
Denver and Trinidad, Colo., 0.11460 cents per pound.
Denver, Colo., and Raton, N. Mex., 0.11856 cents per pound.
Raton and Albuquerque, N. Mex., 0.11364 cents per pound.

[3] The multielement service mail rate established by the Board in Order E-25610 is a line-haul rate of 24 cents per ton-mile plus a terminal charge of 9.36 cents per pound at Trinidad, Colo., and Raton, N. Mex., and 2.34 cents per pound at Denver, Colo., and Albuquerque, N. Mex.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 68-14184; Filed, Nov. 25, 1968; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI69-198, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

NOVEMBER 1, 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 their 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 December 16, 1968.

By the Commission.

[SEAL] GORDON 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 dockets Nos.
RI69-198	Atlantic Richfield Co. (Operator) et al., Post Office Box 2819, Dallas, Tex. 75221, Attn: Richard M. Young, Esq.	148	11	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tabasco Field, Hidalgo County, Tex.) (RR. District No. 4).	$16,315	10-18-68	[2] 1-1-69	6-1-69	15.6	[3 4 5] 16.6	RI68-91.
RI69-199	Pan American Petroleum Corp., Post Office Box 3092, Houston, Tex. 77001, Attn: K. M. Nolen, Esq.	15	18	Texas Eastern Transmission Corp. (South Cottonwood Creek Field, De Witt County, Tex.) (RR. District No. 2).	89	10-18-68	[2] 1-1-69	6-1-69	14.0	[4 6] 14.1568	
	do	171	6	Natural Gas Pipeline Co. of America (East Maxine Field, Live Oak County, Tex.) (RR. District No. 2).	4,114	10-18-68	[2] 1-1-69	6-1-69	[5 8] 14.0	[4 5 7] 15.25	
	do	203	12	Texas Eastern Transmission Corp. (Yoward Field, Bee County, Tex.) (RR. District No. 2).	630	10-18-68	[2] 1-1-69	6-1-69	14.0	[4 6] 14.1568	
RI69-200	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221, Attn: Richard M. Young, Esq.	277	6	Montana-Dakota Utilities Co. and Kansas-Nebraska Natural Gas Co., Inc. (Riverton Dome Field, Fremont County, Wyo.).	155,805	10-15-68	[2] 12-20-68	5-20-69	15.384	[9 10] 18.0	
RI69-201	Mobil Oil Corp. (Operator) et al., Post Office Box 1774, Houston, Tex. 77001, Attn: R. D. Haworth, Esq.	212	[11] 9	Montana-Dakota Utilities Co. (Big Horn Area, Big Horn and Washakie Counties, Wyo.).	[11] 5,927	10-2-68	[12] 11-2-68	4-2-69	13.6154	[3 13] 14.6410	
RI69-202	do	354	17	Montana-Dakota Utilities Co. (Worland Field, Washakie County, Wyo.).	7,779	10-2-68	[12] 11-2-68	4-2-69	13.6154	[3 10] 14.6410	
RI69-203	John C. Oxley, 800-A Enterprise Bldg., Tulsa, Okla. 74103.	3	4	Arkansas Louisiana Gas Co. (Kinta Field, Pittsburg County, Okla.) (Oklahoma "Other" Area).	4,140	10-18-68	[2] 11-19-68	4-19-69	[5] 15.0	[3 4 5] 16.0	
RI69-204	Edwin L. Cox, 3800 First National Bank Bldg., Dallas, Tex. 75202.	54	5	Panhandle Eastern Pipe Line Co. (Dewey County, Okla.) (Oklahoma "Other" Area).	1,710	10-17-68	[12] 11-17-68	4-17-69	[14 15] 15.015	[3 4 14 15] 18.015	RI68-129.

[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.
[6] Increase from "fractured" rate to contractually provided for rate (14 cents base plus 0.1568 cent tax reimbursement.
[7] Renegotiated rate increase.
[8] Rate provided by Settlement order issued Apr. 13, 1966, in Docket Nos. G-9279 et al.
[9] Increase from conditioned initial rate to current contract rate (issued permanent certificate at 15.384 cents per Mcf).
[10] Pressure base is 15.025 p.s.i.a.
[11] Also pertains to sales previously made under Rate Schedule Nos. 270, 271 and 383, now consolidated into Rate Schedule No. 212.
[12] The stated effective date is the first day after expiration of the statutory notice.
[13] Pressure base is 16.4 p.s.i.a.
[14] Subject to upward and downward B.t.u. adjustment.
[15] Includes 0.015 cent tax reimbursement.

Mobil Oil Corp. (Operator) et al., and Mobil Oil Corp. (both referred to herein as Mobil) request that their proposed rate increases be permitted to become effective on November 1, 1968. Edwin L. Cox (Cox) requests an effective date of October 1, 1968, for his proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Mobil and Cox's rate filings and such requests are denied.

Pan American Petroleum Corp. (Pan American) is proposing rate increases under rate schedules subject to the settlement order issued April 13, 1966, in Docket Nos. G-9279, et al. Under the settlement, Pan American waived its right to file for contractually authorized increased rates to be effective prior to January 1, 1969, but reserved its right to file for any increased rates, if contractually authorized, up to the applicable area-rate levels established by any order or rule of the Commission. Pan American is now filing for the contractually authorized rates, from "fractured" rates of 14 cents to 14.1568 cents per Mcf (Supplement Nos. 18 and 12 to Pan American's FPC Gas Rate Schedule Nos. 15 and 203, respectively), and from a settlement rate of 14 cents to 15.25

cents per Mcf (Supplement No. 6 to Pan American's FPC Gas Rate Schedule No. 171), to be effective January 1, 1969, pursuant to the aforementioned moratorium provisions of such settlement order.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended [18 CFR 2.56].

[F.R. Doc. 68–14117; Filed, Nov. 25, 1968; 8:45 a.m.]

[Docket No. RI69–184]

ATLANTIC RICHFIELD CO.

Order Amending Order Providing for Hearings on and Suspension of Proposed Changes in Rates To Permit Substitute Rate Filings

NOVEMBER 15, 1968.

On October 8, 1968, Atlantic Richfield Co. (Atlantic), filed with the Commission two proposed changes in rates from 14.0552 cents to 15.7200 cents per Mcf under its FPC Gas Rate Schedule Nos. 294 and 255, respectively, which pertain to its jurisdictional sales of natural gas from the Prentice Field, Yoakum County, Tex. (Railroad District No. 8) (Permian Basin Area) to Northern Natural Gas Co. The Commission by order issued October 31, 1968, in Docket No. RI69–184, suspended for 5 months Atlantic's rate filings, among others, until May 1, 1969, and thereafter until made effective in the manner prescribed by the Natural Gas Act. Atlantic's suspended rate increases have not been made effective pursuant to section 4(e) of the Natural Gas Act.

On October 15 and 16, 1968, Atlantic submitted amended notices of change in rates, designated as Supplement No. 1 to Supplements Nos. 4 and 6 to Atlantic's FPC Gas Rate Schedule Nos. 255 and 294, respectively, amending the supplements to the aforementioned rate schedules to provide for rate increases from 14.0552 cents to 15.0600 cents per Mcf instead of the 14.0552 cents to 15.7200 cents per Mcf filed on October 8, 1968. Atlantic filed the amended notices of change in rate to correct the tax reimbursement portion of the previous rate increases filed under the aforementioned rate schedules and suspended in Docket No. RI69–184 until May 1, 1969. The proposed substitute rate filings are set forth in Appendix "A" hereof.

Atlantic's proposed 15.0600 cents per Mcf rates exceed the just and reasonable area ceiling rate established by the Commission in its Opinions Nos. 468 and 468–A, as did the previously suspended rates under the rate schedules involved in said docket. Since Atlantic's amended rate filings involve tax reimbursement corrections, we believe that it would be in the public interest to accept Atlantic's corrective rate filings subject to the suspension proceeding in Docket No. RI69–184, with the suspension periods of such substitute rate filings to terminate concurrently with the suspension periods (May 1, 1969) of the original filings in said docket.

The Commission orders:

(A) The suspension order issued October 31, 1968, in Docket No. RI69–184, is amended only so far as to permit the 15.0600 cents per Mcf rate contained in Supplement No. 1 to Supplements Nos. 4 and 6 to Atlantic's FPC Gas Rate Schedule Nos. 255 and 294, respectively, to be filed to supersede the 15.7200 cents per Mcf rate provided by Supplements Nos. 4 and 6 to Atlantic's FPC Gas Rate Schedules Nos. 255 and 294, respectively, subject to the suspension proceeding in Docket No. RI69–184. The suspension periods for such substitute rate filings shall terminate on May 1, 1969.

(B) In all other respects, the order issued by the Commission on October 31, 1968, in Docket No. RI69–184, shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

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 dockets Nos.
RI69–184..	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221, Attn: Richard M. Young, Esq.	255	[1] 1 to 4	Northern Natural Gas Co. (Prentice Field, Yoakum County, Tex.) (R.R. District No. 8).	$183	10–15–68	[2] 12–1–68	[6] 5–1–69	14.0552	[3 4 5] 15.0600	
.....do		294	[1] 1 to 6	.....do	2	10–16–68	[2] 12–1–68	[6] 5–1–69	14.0552	[3 4 5] 15.0600	

[1] Supersedes notice of change filed Oct. 8, 1968, and presently suspended in Docket No. RI69–184, to reflect correction in level of tax reimbursement.
[2] The stated effective date is the effective date requested by Respondent.
[3] Increase from area ceiling rate to contractually due rate.
[4] Pressure base is 14.65 p.s.i.a.
[5] Includes compression allowance of 2 cents per Mcf.
[6] The end of the suspension period for the previously filed 15.7200 cents per Mcf rate filed in Docket No. RI69–184.

[F.R. Doc. 68–14118; Filed, Nov. 25, 1968; 8:45 a.m.]

[Docket No. E–7458]

WISCONSIN POWER AND LIGHT CO.

Notice of Application

NOVEMBER 18, 1968.

Take notice that on November 5, 1968, Wisconsin Power and Light Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $30 million in short-term unsecured promissory notes.

Applicant is incorporated under the laws of the State of Wisconsin with its principal place of business at Madison, Wis., and is engaged in the electric utility business in the State of Wisconsin.

The notes will be issued to both commercial banks and to commercial paper dealers.

The notes to commercial banks will mature on a date not more than 12 months from the date thereof or the date of renewal; will bear interest from the date thereof to maturity at an interest cost to the company which will not exceed the prime rate of interest prevailing at such bank on the date each such borrowing is made.

The notes to commercial paper dealers will be dated the date of issue; will have varying maturities of not more than nine months after date of issue, and will be sold in varying denominations of not less than $50,000. Such commercial paper will be issued and sold at a discount which will not exceed the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturity sold by issuers thereof to commercial paper dealers and at an interest cost (discount rate) which will not exceed the effective cost of money for unsecured prime commercial bank loans prevailing on the date of issue.

The notes and the commercial paper will be issued, at any time from time to time, but not later than December 31, 1969.

The proceeds from the issuance of the notes and the commercial paper will be added to the general funds of the Applicant and will be used principally to finance temporarily a part of the cost of its 1968–69 construction program. Among the principal items in Applicant's 1968–69 program are $25.6 million for construction work on the Edgewater Steam Plant Unit No. 4 and $14.9 million for construction work on the Kewaunee Nuclear Plant Unit No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 2, 1968, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 68–14151; Filed, Nov. 25, 1968; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

DUMONT CORP.

Order Suspending Trading

NOVEMBER 20, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B Common Stock of Dumont Corp. 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 November 21, 1968, through November 30, 1968, both dates inclusive.

By the Commission.

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

[F.R. Doc. 68-14158; Filed, Nov. 25, 1968; 8:45 a.m.]

[70-4239]

GENERAL PUBLIC UTILITIES CORP. AND LAING-VORTEX, INC.

Notice of Filing of Posteffective Amendment Regarding Transactions by Holding Company and Nonutility Subsidiary Company

NOVEMBER 20, 1968.

Notice is hereby given that General Public Utilities Corp. ("GPU"), a registered holding company, and its nonutility subsidiary company, Laing-Vortex, Inc. ("Laing"), 800 Pine Street, New York, N.Y. 10005, have filed with this Commission Posteffective Amendment No. 3 to a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, and 12(b) thereof and Rule 43 promulgated thereunder, which, it is stated, may be applicable to the proposed transactions. All interested persons are referred to said joint application-declaration as amended by said posteffective amendment, which is summarized below, for a complete statement of the proposed transactions.

Laing, a New York corporation, was organized in 1965 for the purpose of promoting the manufacture and marketing on a national scale of electric space heaters, air-conditioners, and other electrical equipment employing a kind of fan called a "tangential blower" or "vortex fan." GPU owns 70,000 shares of Laing's common stock, or 70 percent of the total outstanding, and 6 percent promissory notes of Laing totaling $379,000 in principal amount and maturing February 15, 1970, by which date GPU is required to divest itself of all its investments in Laing (Holding Company Act Release Nos. 15184 and 15633).

GPU initially acquired from Laing 50,000 shares of Laing common stock at $10 per share, or a total consideration of $500,000. The 20,000 shares were subsequently acquired from Laing's other stockholder, Beteiligungs-Aktiengesellschaft fuer haustechnick ("H-T"), a Swiss corporation which, for cash and 50,000 shares of Laing common stock, transferred to Laing certain patents, patent rights, technical information and related material and agreements. These 20,000 shares were acquired by GPU for a nominal consideration pursuant to a prior agreement among GPU, H-T, and Laing dated as of July 1, 1966, when Laing defaulted on certain of its obligations to GPU.

As at June 30, 1968, Laing had assets, per books, totaling $530,938, including patents and patent applications (cost less accumulated amortization) at $528,419. For the 12 months then ended, Laing had no operating revenues, its net loss for the year was $220,569 and its accumulated deficit then totaled $871,822.

GPU states that Laing is in need of additional funds which GPU does not desire to advance; that it would not be in GPU's interest to force Laing into liquidation; and that the continued operation of Laing would provide GPU the best and possibly the sole opportunity to obtain any significant recovery of its investment in Laing. To this end the interested parties, including GPU, H-T, Laing and Standard Magnet AG ("Standard"), a newly created Swiss corporation, have entered into an agreement dated August 15, 1968, which, in substance, provides that (1) GPU will sell to Standard 49,999 shares of Laing common stock for a cash consideration of $70,000; (2) GPU will sell to H-T 20,000 shares of Laing common stock for the same nominal consideration which GPU paid for these shares; (3) and Standard will lend to Laing $130,000, of which $50,000 will be used by Laing for working capital and the balance of $80,000 will be paid to GPU in full satisfaction of (i) $129,000 principal amount of Laing's 6 percent notes held by GPU and (ii) accrued interest on all Laing notes held by GPU. The agreement further provides that GPU will extend the maturity dates of the balance of the notes, $250,000 principal amount, so that these notes will become due in installments on January 1 of each of the years 1972 through 1976 beginning with $30,000 in 1972 and increasing by $10,000 each year, with the last installment payment in 1976 consisting of $70,000. The notes, as extended, will bear no interest until January 1, 1972, and thereafter will bear interest at 6 percent per annum. It is stated that upon transfer and sale of the Laing stock GPU will have no part in the management or the conduct of the operations of Laing, and that GPU proposes to dispose of the one remaining share of Laing common stock prior to February 15, 1979.

It is stated that the fees and expenses in connection with the transactions described above, to be borne by GPU, are estimated at $5,500, of which $5,000 represent legal fees.

It is further stated that no 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 December 9, 1968, request in writing that a hearing will 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 joint application-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 joint applicants-declarants of 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 joint application-declaration, as filed or as it may be amended, may be granted and 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. 68-14159; Filed, Nov. 25, 1968; 8:45 a.m.]

[70-4693]

WEST TEXAS UTILITIES CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

NOVEMBER 20, 1968.

Notice is hereby given that West Texas Utilities Co. ("West Texas"), 1062 North Third Street, Abilene, Tex. 79604, a public-utility subsidiary company of Central and South West Corp., 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(a) and 7 of the Act and Rules 23 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

West Texas proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50, $12 million principal amount of first mortgage bonds, Series G, ------ percent, due January 1, 1999. The interest rate (which shall be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest to be added to such price, to be paid to West Texas for the bonds) which shall be not less than 99 percent nor more than 102¾ percent of the principal amount of the bonds) will be determined by the competitive bidding. The bonds will be issued under and secured by the first mortgage dated August 1, 1943, between West Texas and Harris Trust and Savings Bank and Harold Earhart, as trustees, as heretofore supplemented and as to be further supplemented by a sixth supplemental indenture to be dated January 1, 1969.

The net proceeds from the sale of the bonds will be used to finance additions, extensions, betterments, and improvements made and to be made to its electric utility properties (including the payment or prepayment of $8,369,560 borrowings from Central and South West Corp. incurred for that purpose). Construction expenditures for the fourth quarter of 1968 and for the calendar year 1969 are presently estimated at $2,930,000 and $9,430,000, respectively.

It is stated that the fees and expenses to be incurred in connection with the issue and sale of the bonds are estimated at $44,000, including accountants' fees of $2,500 and counsel fees of $12,600. The fees of counsel for the underwriters, to be paid by the successful bidders, are to be filed by amendment.

It is further stated that no State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 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 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. 68-14160; Filed, Nov. 25, 1968; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 736]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 21, 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 115826 (Sub-No. 185 TA), filed November 18, 1968. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, Colo. 80217. Applicant's representative: James F. Digby (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Carter Packing Co., Inc., at or near Buhl, Idaho, to Gooding, Idaho, and points within 5 miles thereof, and points in Jefferson County, Idaho. NOTE: Applicant seeks authority to tack the authority sought herein with that held in its Subs 69, 106, 149, and south in its pending Sub 166, for 180 days. Supporting shipper: Carter Packing Co., Inc., Buhl, Idaho 83316. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 120240 (Sub-No. 7 TA), filed November 18, 1968. Applicant: FREEMAN TRANSFER, INC., 4216 Commercial Avenue, Post Office Box 623 DTS, Omaha, Nebr. 68101. Applicant's representative: Duane W. Acklie, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard, corrugated containers, sheets, and parts thereof*, from Omaha, Nebr., to Denver and Greeley, Colo., and points in their commercial zones, for 150 days. Supporting shipper: Weyerhaeuser Co., 100 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Keith P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 124221 (Sub-No. 20 TA), filed November 18, 1968. Applicant: HOWARD BAER, 821 East Dunne Street, Post Office Box 127, Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, ice cream products, sherbets, ice milks, water ices, vegetable fat frozen desserts, and frozen novelties*, between the Kroger Company Dairy Division manufacturing facility and warehouse facilities at or near Hazelwood, Mo., and Nashville and Cookville, Tenn., and Decatur, Ala., under a continuing contract or contracts with the Kroger Co., for 180 days. Supporting shipper: The Kroger Co., St. Louis Dairy, 6040 North Lindberg Boulevard, Hazelwood, Mo. 63042. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 124489 (Sub-No. 2 TA), filed November 18, 1968. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, Ill. 60639. Applicant's representative: Carl Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail paint supply houses (except commodities in bulk) and glass, from Chicago, Ill., to points in Lake, Porter, and La Porte Counties, Ind., restricted to a transportation service to be performed under a continuing contract or contracts with Hooker Glass and Paint Manufacturing Co. of Chicago, Ill., for 150 days. Supporting shipper: Hooker Glass & Paint Manufacturing Co., 651-659 Washington Boulevard, Chicago, Ill. 60606. Send protests to: District Supervisor Andrew J. Montgomery, Bureau of Operations, Interstate Commerce Commission, Room 1086, U.S. Courthouse

and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 124878 (Sub-No. 1 TA), filed November 18, 1968. Applicant: LAPADULA AIR FREIGHT TRANSFER, INC., 200 Links Drive West, Oceanside, N.Y. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electronic equipment*, between Great Neck, N.Y., and Islip, N.Y., for 150 days. Supporting shipper: Department of the Navy, O. B. Sutton, Transportation Officer. Send protests to: District Supervisor E. N. Carignan, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 127355 (Sub-No. 3 TA), filed November 18, 1968. Applicant: M & N GRAIN COMPANY, 902 East Wooter, Nevada, Mo. 64772. Applicant's representative: Donald J. Quinn, Suite 900, 1012 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipeline skids*, from Butler, Lamar, and Deerfield, Mo., to points in Arizona, New Mexico, and Texas, for 180 days. Under contract and supported by: Pipeline Skids Service, Inc., 222 West Main Street, Chanute, Kans. 66720. Send protests to: District Supervisor John V. Barry, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 128285 (Sub-No. 1 TA), filed November 18, 1968. Applicant: MELLOW EQUIPMENT CO., INC., Post Office Box 17063, 9001 North Denver, Portland, Oreg. 97217. Applicant's representative: Earle V. White, Farley Building, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated wooden buildings, wooden cabinets, and doors*, from Longview, Wash., to points in Washington, Oregon, California, Nevada, Idaho, and Montana, for 180 days. Under contract and supported by: Westway Building Center, Inc., 798 Commerce Avenue, Longview, Wash. 98632. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

No. MC 128570 (Sub-No. 8 TA), filed November 18, 1968. Applicant: BROOKS ARMORED CAR SERVICE, INC., 13 East 35th Street, Wilmington, Del. 19802. Applicant's representative: William F. Brooks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Interoffice records and memoranda, accounting and billing records and media and documents*, between Wilmington, Del., on the one hand, and, on the other, Morristown, N.J., for 180 days. Supporting shipper: Beneficial Management Corp., Beneficial Building, Wilmington, Del. 19899, H. J. Robinson, Secretary. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 206 Old Post Office Building, Salisbury, Md. 21801.

No. MC 133034 (Sub-No. 1 TA), filed November 18, 1968. Applicant: ANDREW J. DAVIDSON, doing business as ANDY DAVIDSON TRUCKING, 3026 Southeast 112th, Portland, Oreg. 97266. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) between points in Washington west of the Cascade Range and Klickatat County, Wash., on the one hand, and, on the other, points in Oregon; (2) between points in Oregon, restricted to traffic having a prior or subsequent movement by water; and (3) between points in Washington, restricted to traffic having a prior or subsequent movement by water, for 180 days. Under contract and supported by: Whipple & Moshofsky Lumber Co., 2041 Southwest 58th Avenue, Portland, Oreg. 97221. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204. NOTE: Authority herein applied for, includes authority issued August 22, 1968 and outstanding in MC 133034 TA. If authority sought herein is granted, applicant offers MC 133034 TA, for revocation concurrent with issuance of the new authority.

No. MC 133291 TA, filed November 18, 1968. Applicant: JAMES H. FUNCH, doing business as JAMES FUNCH TRUCKING, 4717 East Madison Avenue, Fresno, Calif. 93726. Applicant's representative: William H. Kessler, 638 Divisadero Street, Fresno, Calif. 93721. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shingles, shakes, and ridge*, from points in Skagit and Clallam Counties, Wash., to points in Shasta, Tehama, Sutter, Yuba, Sacramento, Yolo, San Joaquin, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, Stanislaus, Merced, Medera, Fresno, Kings, Tulare, Kern, Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, San Diego and Imperial Counties, Calif., and *refused or rejected shipments*, on return, for 180 days. Under contract and supported by: Hoh River Cedar Products, Box 127, Beaver, Wash.; Hurn Shingle Co., Inc., Route 1, Concrete, Wash., and Supreme Cedar Products, Inc., Hamilton, Wash. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 133292 TA, filed November 18, 1968. Applicant: JAMES S. HILL, 4291 North Second Street, Fresno, Calif. 93726. Applicant's representative: William H. Kessler, 638 Divisadero Street, Fresno, Calif. 93721. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shingles, shakes, and ridge*, from points in Skagit and Clallam Counties, Wash., to points in Shasta, Tehama, Sutter, Yuba, Sacramento, Yolo, San Joaquin, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern, Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Imperial Counties, Calif., and *refused or rejected shipments*, on return, for 180 days. Under contract and supported by: Hoh River Cedar Products, Box 127, Beaver, Wash.; Hurn Shingle Co., Inc., Route 1, Concrete, Wash., and Supreme Cedar Products, Inc., Hamilton, Wash. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 133293 TA, filed November 18, 1968. Applicant: RUDOLPH KIEHNE, Box 1019, Litchfield, Minn. 55355. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and medicated animal health products and feed additives*, from Cedar Rapids, Iowa, to Litchfield, Minn., for 180 days. Supporting shipper: Vigortone Products Co., Cedar Rapids, Iowa. Send protests to: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-14166; Filed, Nov. 25, 1968; 8:46 a.m.]

[Notice 252]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 20, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70872. By order of November 18, 1968, the Transfer Board approved the transfer to J. P. Graham Transfer, Inc., Rochester, Pa., of certificate No. MC-21779, issued October 8, 1962, to J. P. Graham, III, doing business as J. P. Graham Transfer, Rochester, Pa.,

authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Pittsburgh, Pa., and Wheeling, W. Va., serving all intermediate points and specified off-route points; iron and steel products, from New Brighton and Beaver Falls, Pa., to specified Ohio points; iron and steel, iron and steel products, and copper, brass, and bronze articles, between a specified portion in Beaver County, Pa., on the one hand, and, on the other, a specified portion of Ohio; burlap bags, from Fallston, Pa., to Hartville, Ohio; chemicals, from Cleveland, Ohio, to specified points in Pennsylvania; and petroleum products, iron and steel and products thereof, borax, borax products, and zinc oxide, from points in Allegheny and Beaver Counties, Pa., to specified points in Pennsylvania, Ohio, and West Virginia. J. David Ray, 640 Fourth Street, Beaver, Pa. 15009, attorney for applicants.

No. MC–FC–70896. By order of November 18, 1968, the Transfer Board approved the transfer to General Leasing, Inc., Box 216, Prairie du Chien, Wis. 53821, of the operating rights in certificate No. MC–126133 issued March 18, 1965, to Edward A. Welter and Harry Vorwald, doing business as Quality Beverage Co., Box 216, Prairie du Chien, Wis. 53821, authorizing the transportation of: Malt beverages and malt liquor, from La Crosse and Milwaukee, Wis., to Dubuque, Iowa.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–14167; Filed, Nov. 25, 1968; 8:46 a.m.]

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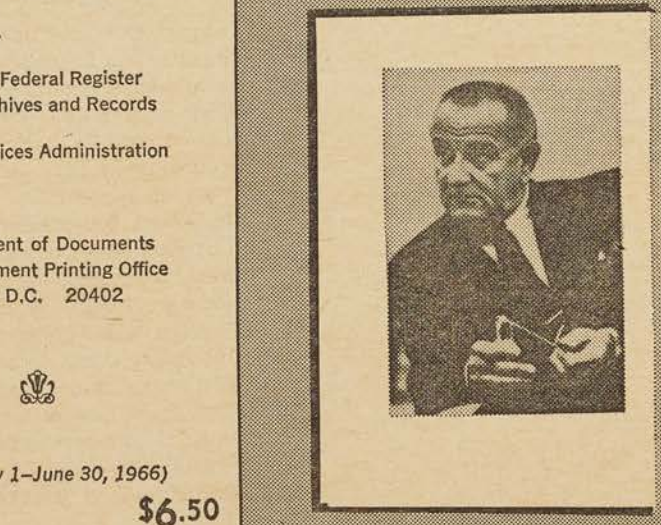

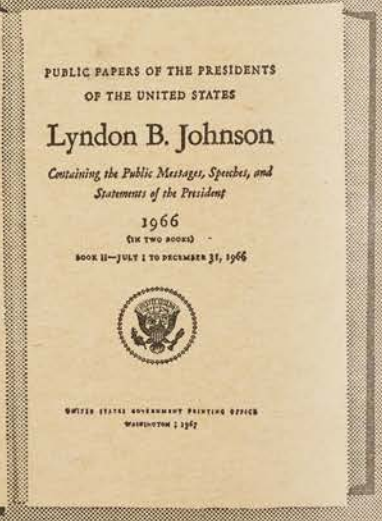

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