FEDERAL REGISTER

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TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Tokay Grape Order 1]

PART 951—TOKAY GRAPES GROWN IN SAN JOAQUIN AND SACRAMENTO COUNTIES IN CALIFORNIA

REGULATION BY GRADES AND SIZES

§ 951.317 *Tokay Grape Order 1*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 51, as amended (7 CFR Part 951) regulating the handling of Tokay grapes grown in San Joaquin and Sacramento Counties in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Tokay grapes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 18, 1954. A reasonable determination as to the supply of, and the demand for, Tokay grapes must await the development of the crop and adequate information thereon was not available to the Industry Committee until August 10, 1954; recommendation as to the need for, and the extent of, grade and size regulation was made at the meeting of said committee on August 10, 1954, after consideration of all available information relative to the supply and demand conditions for such grapes, at which time the recommendations and information were transmitted to the Department; shipments of the current crop of such grapes are expected to begin on or about August 18, 1954, and this section should be applicable to all shipments of such grapes in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., August 18, 1954, and ending at 12:01 a. m., P. s. t., January 1, 1955, no shipper shall ship:

(i) Any Tokay grapes produced in the Florin District which do not meet the grade and size specifications of U. S. No. 1 Table Grapes; or

(ii) Any Tokay grapes produced in the Lodi District which do not meet the grade and size specifications of U. S. No. 1 Table Grapes and the following additional requirements:

(*a*) Each bunch of such grapes shall have at least 65 percent, by count, of berries which are fairly well colored;

(*b*) Of the 25 percent, by count, of the berries of each such bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall be fairly well colored; and

(*c*) In lieu of the tolerances for variations incident to proper grading and handling provided for U. S. No. 1 Table Grapes, not more than a total of 6 percent, by weight, of the Tokay Grapes contained in any container may fail to meet the requirements of U. S. No. 1 Table Grapes.

(2) Application of tolerance: In connection with the grade requirements and tolerances established in subparagraph (1) of this paragraph, the application of tolerances to individual packages provided in the U. S. Standards for Table Grapes shall apply except that no container of Tokay grapes shall have more than one-half of one percent, by weight, of berries affected by decay.

(Continued on p. 5167)

CONTENTS

FEDERAL REGISTER

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CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

(3) Definitions: As used in this section, "handler," "shipper," "ship," "Lodi District," "Florin District," "bunch," and "size" shall have the same meaning as when used in the amended marketing agreement and order; and "U. S. No. 1 Table Grapes," "fairly well colored berries," and "decay," shall have the same meaning as when used in the United States Standards for Table Grapes (§§ 51.880 to 51.911 of this title).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 13, 1954.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 54-6405; Filed, Aug. 16, 1954; 8:58 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53553]

PART 25—CUSTOMS BONDS

GENERAL TERM BOND FOR ENTRY OF MERCHANDISE

Section 25.3 (a) (3) of the Customs Regulations requires that an application for permission to file a General Term Bond for Entry of Merchandise on customs Form 7595 shall be filed with the collector and transmitted to the Bureau for approval. It has been determined that approval of this bond would be expedited with an appreciable saving of man hours if authority to approve the application were delegated to collectors.

For the reason stated, the word "collector" is hereby substituted for the word "Bureau" in the first sentence of § 25.3 (a) (3) and the second sentence thereof is amended to read as follows: "A principal desiring to execute this form of bond shall file with a collector at any headquarters port to be named in the bond an application, in duplicate, for permission to file the bond."

(Secs. 623, 624, 46 Stat. 759, as amended; 19 U. S. C. 1623, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: August 10, 1954.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 54-6355; Filed, Aug. 16, 1954; 8:50 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T. D. 6091]

PRESCRIBING STOPGAP REGULATIONS UNDER THE INTERNAL REVENUE CODE OF 1954; ELECTIONS OR OTHER ACTS

In order to permit a proper administration of the Internal Revenue Code of 1954 (herein referred to as "the Code"), it is hereby prescribed in furtherance of the purposes of sections 7807 and 7851 (b) of the Code that—

PARAGRAPH 1. All regulations (including all Treasury decisions) prescribed by, or under authority duly delegated by, the Secretary of the Treasury, or jointly by the Secretary and the Commissioner of Internal Revenue, or by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, or jointly by the Commissioner of Internal Revenue and the Commissioner of Customs or the Commissioner of Narcotics with the approval of the Secretary of the Treasury, applicable under any provision of law in effect on the date of enactment of the Code, to the extent such provision of law is repealed by the Code, are hereby prescribed under and made applicable to the provisions of the Code corresponding to the provision of law so repealed insofar as any such regulation is not inconsistent with the Code. Such regulations shall become effective as regulations under the various provisions of the Code as of the dates the corresponding provisions of law are repealed by the Code, until superseded by regulations issued under the Code.

PAR. 2. With respect to any provision of the Code which depends for its application upon the promulgation of regulations or which is to be applied in such manner as may be prescribed by regulations, all instructions or rules in effect immediately prior to the enactment of the Code, to the extent such instructions or rules could be prescribed as regulations under authority of such provision of the Code, shall be applied as regulations under such provision insofar as such instructions or rules are not inconsistent with the Code. Such instructions or rules shall be applied as regulations under the applicable provision of the Code as of the date such provision takes effect.

PAR. 3. If any election made or other act done pursuant to any provision of the Internal Revenue Code of 1939 or prior internal revenue laws would (except for the enactment of the Code) be effective for any period subsequent to such enactment, and if corresponding provisions are contained in the Code, such election or other act shall be given the same effect under the corresponding provisions of the Code to the extent not inconsistent therewith. The term "act" includes, but is not limited to, an allocation, identification, declaration, agreement, option, waiver, relinquishment, or renunciation.

PAR. 4. The limits of the various internal revenue districts have not been changed by the enactment of the Code. Furthermore, delegations of authority made pursuant to the provisions of Reorganization Plan No. 26 of 1950 and Reorganization Plan No. 1 of 1952 (as well as redelegations thereunder), including those governing the authority of the Commissioner of Internal Revenue, the Regional Commissioners of Internal Revenue, or the District Directors of Internal Revenue, are applicable to the provisions of the Code to the extent consistent therewith.

Because this Treasury decision merely provides for the continuance of existing rules pending further action, it is hereby found that it is impracticable and contrary to the public interest to incur the delay which would result if this Treasury decision were issued with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act.

(68A Stat. 917; 26 U. S. C. 7805)

[SEAL] M. B. FOLSOM,
Acting Secretary of the Treasury.

AUGUST 16, 1954.

[F. R. Doc. 54-6437; Filed, Aug. 16, 1954; 12:29 p. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration, Department of Commerce

[BDSA Order M-11A (Formerly NPA Order M-11A), Amdt. 5 of August 13, 1954]

M-11A—COPPER AND COPPER-BASE ALLOYS

AMOUNT OF PRODUCTION CAPACITY TO BE RESERVED

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this amendment, consultation with industry representatives has been rendered impracticable due to the need for immediate action.

This amendment affects BDSA Order M-11A (formerly NPA Order M-11A), as amended, by changing the amount of production capacity which producers of copper controlled materials must reserve for the acceptance of authorized controlled material orders. Paragraph (b) of section 9 of BDSA Order M-11A, as amended by Amendment 4 of May 19, 1954, is hereby further amended to read as follows:

(b) The production capacity to be reserved by a copper controlled materials producer for the production of each copper controlled material product to be delivered pursuant to authorized controlled material orders for any such product for a particular month, shall be that capacity required to produce a quantity by weight of such product, computed by multiplying the average shipment of such product by the applicable percentage set opposite such product in the following list:

	Percentage for orders calling for delivery—	
	Prior to Oct. 1, 1954	After Sept. 30, 1954
Brass mill products:		
Unalloyed:		
Plate, sheet, strip, and rolls	7	9
Rod, bar, shapes, and wire	7	12
Seamless tube and pipe	6	6
Alloyed:		
Plate, sheet, strip, and rolls	13	8
Rod, bar, shapes, and wire	10	6
Seamless tube and pipe	26	17
Military ammunition cups and discs	(1)	(1)
Copper wire mill products:		
Copper wire and cable:		
Bare and tinned	13	8
Weatherproof	13	8
Magnet wire	13	8
Insulated building wire	13	8
Paper and lead power cable	13	8
Paper and lead telephone cable	13	8
Asbestos cable	13	8
Portable and flexible cord and cable	13	8
Communications wire and cable	13	8
Shipboard cable	13	8
Automotive and aircraft wire and cable	13	8
Insulated power cable	13	8
Signal and control cable	13	8
Coaxial cable	13	8
Copper-clad steel wire containing over 20 percent copper by weight regardless of end use	13	8
Copper foundry products and unalloyed copper powder mill products	13	7
Copper-base alloy powder mill products	(1)	(1)

[1] Reserve space will be provided by means of production directives.

(64 Stat. 816, 67 Stat. 129; 50 U. S. C. App. Sup. 2154)

This amendment shall take effect August 13, 1954.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
GEORGE W. AUXIER,
Executive Secretary.

[F. R. Doc. 54-6392; Filed, Aug. 13, 1954; 12:29 p. m.]

Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

[N. S. A. Order No. 66 (OPR 6)]

OPR—AUTHORITY AND RESPONSIBILITY OF GENERAL AGENTS TO UNDERTAKE TO DECOMMISSION TANKERS AND PLACE IN A RESERVE FLEET

Correction

In F. R. Doc. 54-6056, appearing in the issue for Friday, August 6, 1954, at page 4960, make the following changes:

1. In section 3 (v) (27), line 3, the word "packet" should read "jacket".

2. Preceding the heading for the General Agent's Completion Report, insert the heading "Attachment A".

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter E—Organized Reserves

PART 561—ARMY RESERVE

MISCELLANEOUS AMENDMENTS

1. In § 561.6 (c), subparagraph (4) is added as follows:

§ 561.6 *Ineligibles.* * * *
(c) * * *

(4) Those who have been separated from any component of any of the Armed Forces of the United States as a security risk or for other than security reasons while undergoing security investigation.

* * * * *

2. In § 561.11 (d), revise subparagraph (1) to read as follows:

§ 561.11 *Physical examinations.* * * *

(d) *Physical examinations for appointment and promotion of commissioned officers and warrant officers*—(1) *General.* The physical examination will be a final type as prescribed in paragraph 2, AR 40-100 (Army regulations pertaining to standards of miscellaneous physical examinations). However, the accomplishment of audiometric reading, serology, lens correction, and microscopic urinalysis are not required unless otherwise indicated. Pelvic examination for female personnel is not required unless otherwise indicated. Chest X-ray should be accomplished provided medical facilities for accomplishing such X-ray are in close proximity to examinees. A report of chest X-ray accomplished within the preceding 12 months at a local public health facility or by a civilian physician may be accepted in lieu of a current report of chest X-ray. Electrocardiogram will be accomplished only for those individuals 40 years of age or over or in other cases if indicated. The physical standards will be those prescribed in AR 40-105 (Army regulations pertaining to standards of physical examination for commission or warrant in Regular Army, National Guard of the United States, Army of the United States, and Army Reserve) for male personnel and those prescribed in AR 40-105, as modified by AR 40-100, for female personnel. The final type physical examination accomplished on release from active duty will be acceptable for promotion purposes for a period of 1 year from date of such examination.

* * * * *

3. In § 561.37 (b) (2), revise subdivisions (v), (viii), (xv), (xxii) and (xxiv) to read as follows:

§ 561.37 *Separation from service.* * * *
(b) * * *
(2) * * *

(v) Upon appointment to the United States Military, Naval, Air Force, or Coast Guard Academy.

* * * * *

(viii) Upon conviction by a civil court and sentence to a Federal or State penitentiary or correctional institution.

* * * * *

(xv) For inability to locate the nonobligated reservist after reasonable effort, or failure of the reservist to reply to official communications. Reservists having service obligations are not eligible for discharge under this authority. A discharge certificate returned by postal authorities as undeliverable will be retained in the original cover in which dispatched and returned and will be forwarded under separate cover, together with a statement as to the reason for nondelivery, to the Commanding Officer, Military Personnel Records Center, TAGO, St. Louis 20, Missouri, for retention with the reservist's records.

* * * * *

(xxii) An individual who has served as a member of any component of any armed force prior to June 19, 1951, and who voluntarily enlists after that date does not, by such enlistment, incur the 8-year service obligation imposed by section 4 (d) (3), Universal Military Training and Service Act, as amended. Such prior service enlistees are eligible for discharge upon completion of the period for which enlisted. An individual who was eligible for discharge under any criteria in effect at the time of his transfer to the Army Reserve, and whose transfer is found by competent authority to have been erroneously made, may, upon his written request, be discharged.

* * * * *

(xxiv) When Regular Army and Army of the United States personnel transferred to the Army Reserve under SR 615-363-5 are found to have been ineligible for enlistment as reservists at time of such transfer, as when DD Form 214 (Report of Separation from the Armed Forces of the United States) contains notation "par. 11, SR 615-105-1 applies." or "par. 10, AR 615-120 applies."

* * * * *

[C4, AR 140-105, July 16, 1954; C2, AR 140-120, July 16, 1954; C3, SR 140-177-1, July 16, 1954] (Sec. 251, 66 Stat. 495; 50 U. S. C. 1002)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 54-6346; Filed, Aug. 16, 1954; 8:48 a. m.]

Chapter XI—National Guard and State Guard, Department of the Army

PART 1101—NATIONAL GUARD REGULATIONS

CLAIMS FOR DAMAGES INVOLVING THE NATIONAL GUARD AND AIR NATIONAL GUARD

Sections 1101.51 to 1101.57 are rescinded and the following substituted therefor:

AUTHORITY: §§ 1101.51 to 1101.58 issued under R. S. 161; 5 U. S. C. 22.
SOURCE: NGR 60, May 27, 1954.

§ 1101.51 *Purpose.* Sections 1101.51 to 1101.58 are published for the information and guidance of all concerned to implement the statutory authority by defining the claims payable thereunder and the procedure for establishing, determining, and settling such claims. They provide the exclusive authorization and procedure for the determination and settlement of claims within the following statutory authority.

§ 1101.52 *Statutory authority.* (a) Limited authority for the payment of claims arising out of National Guard and Air National Guard activities has been granted annually for several years by provisions of the annual Appropriations Act for the Department of Defense. A recent provision is as follows:

The following sums are appropriated, * * * For payment of * * *; claims (not to exceed $1,000 in any one case) for damages to or loss of private property incident to the operation of Army and Air National Guard camps of instruction, either during the stay of units of said organizations at such camps or while en route thereto or therefrom; * * * (Act of August 1, 1953, Public Law 179, 83d Cong.).

(b) In accordance with general principles of law, the National Guard and the Air National Guard when not in Federal service are not agencies of the United States, and the United States is not liable for injury or damage arising from their activities. Thus, claims for such injury or damage are not cognizable under the Federal Tort Claims Act, as revised and codified (62 Stat. 982, 28 U. S. C. 3671-80). By the statutory provisions referred to in paragraph (a) of this section, the United States assumes an obligation to settle administratively limited classes of claims relating to activities of the National Guard and the Air National Guard.

§ 1101.53 *Definitions.* As used in §§ 1101.51 to 1101.58, the following terms shall have the meaning hereinafter set forth:

(a) *Claim.* A written demand for payment in money.

(b) *Private property.* Real or personal property, excluding property owned by any government entity, Federal, State, city, county, or town, and excluding stocks, bonds, chose in action, debts, and insurance policies.

(c) *Camps of instruction.* Regularly scheduled training for units in organized camps, or bivouacs and maneuvers away from such camps constituting part of such training.

(d) *While en route thereto or therefrom.* The period of time during which a unit as distinguished from its individual members if travelling from its rendezvous to a camp of instruction or return, or from the camp of instruction on a regularly scheduled maneuver and return thereto, and the routes followed by the unit. The term does not include the movement of individuals.

(e) *Proximate cause.* No precise definition of this term can be given. Whether acts or omissions of personnel constitute proximate cause must be determined in accordance with the local law. In general, an act or omission may be said to have been a proximate cause of the accident or incident if it was one of the impelling forces resulting in the accident or incident. For example, in a rear-end collision, the failure of the driver of the following car to stop in time is said to be the proximate cause of the accident. But, if the driver of the leading car stopped so suddenly and without warning that the second car, using the utmost diligence, could not have stopped, the conduct of the driver of the leading car would be said to have been the proximate cause of the accident. An act or omission without the existence of which the accident or incident would not have occurred but which cannot be said to have brought it about is a condition and would not constitute a basis for liability, or, if committed by the claimant, would not constitute a basis for denial of his claim. For example, violations of statutes or ordinances providing standards of safety may be negligence in themselves, but may not constitute the bases of liability or for denial of a claim.

(f) *Scope of employment.* Scope of employment is determined in accordance with the law of the place where the accident or incident occurred, except that statutes in derogation of the common law, such as statutes creating a presumption that an employee is in scope of employment if using the employer's car with permission, are not controlling. An act or omission is within the scope of employment if such activity is expressly or impliedly directed or authorized by competent authority or is at least in part intended to further the mission of the unit or organization, or the interests of the National Guard or the Air National Guard. In determining whether an act or omission was within the scope of employment, consideration must be given to all the attendant facts and circumstances, including the time, place, and purpose thereof; whether it was in furtherance of the omission of the unit of the National Guard or Air National Guard; whether it was usual for or reasonably to be expected of personnel of the classification and grade involved; and whether the instrumentality causing the damage or injury resulted was property of the National Guard or Air National Guard, or of a State or the Federal Government being used by the National Guard or Air National Guard.

§ 1101.54 *Claims payable.* Claims for damage to or loss of private property proximately resulting from authorized activities incident to the operation of camps of instruction, including maneuvers, field exercises, training of units and personnel, movement of vehicles, operation of aircraft, maintenance and support of units and personnel, tortious acts or omissions of military personnel or civilian employees of the National Guard or Air National Guard in the scope of employment, and claims arising under a contract, executed incident to camps of instruction, even though legally enforceable under the express terms of the contract and no other, are payable under §§ 1101.51 to 1101.58.

§ 1101.55 *Claims not payable*—(a) *Contributory negligence.* Negligence or wrongful act of the claimant or of his agent or employee, a proximate cause of the accident or incident, bars a claim. The law of the place where the accident or incident occurred will be followed in determining whether contributory negligence is present but the doctrine of comparative negligence will not be applied.

(b) *Personal injury.* Claims for personal injury are not cognizable under the act or §§ 1101.51 to 1101.58.

(c) *Use and occupancy.* Claims for use and occupancy, payment of which is governed by the terms of a lease or contract, are not cognizable under §§ 1101.51 to 1101.58.

§ 1101.56 *Action by claimant*—(a) *Who may present a claim.* A claim for damage to or loss of private property may be presented by the owner, or his agent or legal representative. The word "owner", as so used, includes bailees, lessees, mortgagors, conditional vendors, and subrogees, but does not include mortgagees, conditional vendors, and others having title for purposes of security only. If filed by an agent or legal representative, the claim should be filed in the name of the owner, signed by such agent or legal representative, showing the title or capacity of the person signing, and be accompanied by evidence of the appointment of such person as agent, executor, administrator, guardian, or other fiduciary. If filed by a corporation, the claim should show the title or capacity of the officer signing it and be accompanied by evidence of his authority to act. In case of the death of the proper claimant, if it appears that no legal representative has been or will be appointed, the claim may be presented by any person who, by reason of the family relationship, has in fact incurred the expense for which the claim is made.

(b) *Form of claim.* A claim shall be submitted in the form of a statement signed by the claimant, setting forth his address, and stating briefly all the facts and circumstances relating to the damage for which compensation is claimed, including a description of the property, evidence of its value, the nature and extent of the damage, the date and place such damage was incurred, the agency by which it was caused, if known, and the amount. Standard Form 95 (Claim for Damage or Injury), appropriately modified by deleting references to "injury" and "personal injury," may be used for this purpose. The claim and all papers accompanying it which are signed by the claimant should bear like signatures.

(c) *Time within which claim must be presented.* A claim cognizable under §§ 1101.51 to 1101.58 must be submitted within two years of the date of occurrence of the accident or incident.

(d) *Place of filing.* A claim cognizable under §§ 1101.51 to 1101.58 must be presented in writing to the adjutant general, or his duly authorized representative, of the State, Territory, Commonwealth, or District of Columbia, having jurisdiction over the personnel or unit involved in the accident or incident out of which the claim arose, or to the office of the Chief, National Guard Bureau, The Pentagon, Washington 25, D. C.

(e) *Evidence to be submitted by claimant*—(1) *General*. A claim for damage to or loss of private property must be specific and substantiated by evidence of the damage or loss. A mere statement that such property was damaged or lost and that a certain amount is a fair compensation therefor is not sufficient to support a claim.

(2) *Motor vehicles, buildings, fences, and other structures*. The claimant must submit, if repairs or replacement has been effected, itemized bills therefor, signed and certified as just and correct by the repairman or suppliers, together with evidence of payment thereof, if made; if repairs or replacement has not been effected, an estimate of the cost thereof signed by a person competent to effect such repairs or replacement.

(3) *Crops, trees, land, and other realty*. The claimant must submit an itemized signed estimate of the cost of repairs or restoration of the property, supported by evidence of the number of acres of land, crops, or trees involved, the normal yield per acre and the market value of the property per unit of measure common to the property damaged, or the estimated length of time the land will be unfit for grazing, the normal rental value per acre of similar land in the vicinity; and such other information as may be necessary.

(4) *Contracts*. A copy of the contract, or competent evidence of the provisions thereof, will be furnished by the claimant in support of a claim cognizable under § 1101.54.

(5) *Additional evidence*. The claims officer, the interested State adjutant general, or the Chief National Guard Bureau, may require the claimant to submit such additional evidences as he deems necessary to substantiate the claim, including, without limiting the generality of the foregoing, estimates of cost, of repairs from repairman other than those whose estimates the claimant has submitted with the claim and evidence of ownership of or interest in the property.

§ 1101.57 *Procedure*. Responsibility for the investigation of claims cognizable under §§ 1101.51 to 1101.68 and of accidents or incidents which may give rise to such claims rests in the adjutants general of the several States. Accordingly, claims received by the National Guard Bureau, or other agencies of the United States, will be referred to the adjutants general of the interested States. Regulations promulgated by the State adjutants general should require the prompt investigation of all accidents or incidents which might result in claims cognizable hereunder, whether or not claims have been filed.

§ 1101.58 *Determination of amount allowable*. (a) The maximum amount which may be allowed is the value of the property immediately prior to the accident or incident. Subject to the foregoing, the amount allowable is the cost, incurred or estimated to be incurred, of replacing the property, or of restoring it to the condition in which it was immediately prior to the accident or incident. However, if as the result of the repairs effected, the value of the property is appreciably enhanced, a sum equal to the increase in value will be deducted from the cost of restoring the property in determining the amount allowed. Conversely, if after the repairs have been effected, the value of the property is appreciably less than that prior to the accident or incident, the difference in value will be added to the cost of repairs in determining the amount allowed. However, no award in excess of the amount claimed may be made.

(b) In determining the amount allowable for repairs, the permanency of parts replaced will be considered and deductions made for depreciation as appropriate. Thus, an automobile tire is not expected to last through the life of a vehicle so that when a tire three-fourths worn is replaced with a new tire, the amount allowable is one-fourth of the cost of the new tire. The same principle applies to batteries and other items of equipment or accessories during relatively short wearout periods. However, no allowance for depreciation is made in replacing parts, such as fenders, bumpers, radiators, which normally would last through the life of the vehicle.

(c) Deprivation of use of property (including motor vehicles) is allowable as an item of damages, but only in those cases where the claimant has sustained legally provable damages. Towing charges are also allowable items of damage. However, interest, cost of preparation of claim and of securing supporting evidence, inconvenience, and similar items are not property allowable items of damage.

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 54-6347; Filed, Aug. 16, 1954; 8:48 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

LAKE TAHOE, NEV.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 207.643 establishing a restricted area in the waters of Lake Tahoe, adjacent to Nevada Beach, Nevada, is hereby prescribed as follows:

§ 207.643 *Lake Tahoe, Nevada; restricted area adjacent to Nevada Beach*—(a) *The restricted area*. The waters of Lake Tahoe shoreward of a line described as follows: Beginning at the intersection of the high water line with a line projected in a general southerly direction 200 feet from a point lying 310 feet west of section corner common to section 15, 16, 21, and 22, Township 13 North (Mt. Diablo Base Line), Range 18 East (Mt. Diablo Meridian); thence 300 feet lakeward at right angles to the high water line; thence southeasterly approximately 2,170 feet to the projected south boundary line of the Forest Service property at a point 300 feet west of the high water line; and thence east 300 feet to the high water line.

(b) *The regulations*. No sail or motor propelled water craft, except vessels owned or controlled by the United States Government and vessels duly authorized by the United States Coast Guard shall navigate or anchor in the restricted area.

[Regs., Aug. 2, 1954; 800.212 (Tahoe Lake, Nev)-ENGWO] (40 Stat. 266; 33 U. S. C. 1)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 54-6348; Filed, Aug. 16, 1954; 8:48 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Ex Parte 179]

PART 91—LOCOMOTIVE INSPECTION

RULES AND INSTRUCTIONS FOR INSPECTION AND TESTING OF MULTIPLE UNIT EQUIPMENT; MODIFICATION OF EFFECTIVE DATE

Upon consideration of the record in the above-entitled proceeding and of petitions for reconsideration filed by the Hudson & Manhattan Railroad Company, The Baltimore and Ohio Railroad Company, The Staten Island Rapid Transit Company, The New York Central Railroad Company, The Long Island Rail Road Company, The Delaware, Lackawanna and Western Railroad Company, The Illinois Central Railroad Company, The New York, New Haven and Hartford Railroad Company, The Pennsylvania Railroad Company and Reading Company; and for good cause appearing:

It is ordered, That the order entered in said proceeding on May 18, 1954, which prescribes new rules and instructions for the inspection and testing of electrically operated units designed to carry freight and/or passengers operated by a single set of controls, effective September 1, 1954, be, and it is hereby, modified to become effective January 1, 1955, and by substituting January 1, 1955, for September 1, 1954, wherever it appears in the said order (§§ 91.400 to 91.458) (19 F. R. 3266) without change otherwise.

Notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

(Sec. 5, 36 Stat. 914, as amended; 45 U. S. C. 28)

Dated at Washington, D. C., this 9th day of August, A. D. 1954.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-6345; Filed, Aug. 16, 1954; 8:48 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 101]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

PROCEDURE ALTERATIONS

The standard instrument approach procedure alterations appearing hereinafter are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 609 is amended as follows:

NOTE: Where the general classification (LFR, VAR, ADF, ILS, OCA, or VOR), location, and procedure number (if any) of any procedure in the amendments which follow, are identical with an existing procedure, that procedure is to be substituted for the existing one, as of the effective date given, to the extent that it differs from the existing procedure; where a procedure is canceled, the existing procedure is revoked; new procedures are to be placed in appropriate alphabetical sequence within the section amended.

1. The low frequency range procedures prescribed in § 609.6 are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

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

If an LFR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility: class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums: Condition	Type aircraft: 75 m. p. h. or less	Type aircraft: More than 75 m. p. h.	If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11
ARCATA, CALIF. Arcata airport 217' SBMRLZ-DTV ACV Procedure No. 1 August 16, 1954	Intersection W course FJS (LFR) and radial 003° FOT (VOR).	184—35.0	6,000	S side W course: 274° outbound. 094° inbound. 1,500' within 10 miles. Beyond 10 miles not authorized.	700	001—3.1	T-dn C-dn A-dn	300-1 500-2 1,000-2	300-1 500-2 1,000-2	Within 0 mile, make left turn and climb to 3,000' or on top, on W course of ACV LFR within 10 miles.
	FOT VOR	338—18.5	2,000							
	Intersection W course ACV (LFR) and radial 160° CEC (VOR) or radial 341° FOT (VOR).	094—6.5	1,500							
	Approaches from all other directions must be made on top with tops not above 10,000' mean sea level.									
ARCATA, CALIF. Arcata Airport SBMRLZ-DTV ACV Procedure No. 2 March 17, 1954	PROCEDURE CANCELED AUGUST 16, 1954.									
BAKER, OREG. Baker, 3,368' SBRAZ-DTV BKE Procedure No. 1 August 23, 1954	BKE VOR	286—2.1	7,000	E side NW course:* 300° outbound. 120° inbound. 7,000' within 10 miles. 9,000' within 15 miles. Beyond 15 miles not authorized.	5,100	111—1.8	T-d T-n C-d C-n A-dn	1,000-1 1,000-2 1,700-1 1,700-2 1,700-2	1,000-1 1,000-2 1,700-1 1,700-2 1,700-2	Within 0 mile of BKE LFR turn left, climb to 9,000' on NW course within 15 miles of BKE LFR. *Procedure turn E side for more favorable terrain.
BLYTHE, CALIF. Municipal 397' SBMRAZ-VDT BLH Procedure No. 1 August 16, 1954	Blythe VOR	074—7.0	5,000	W side S course: 165° outbound. 345° inbound. 2,000' within 10 miles. 3,000' within 15 miles. 4,000' within 25 miles.	1,200	268—4.1	T-d T-n C-dn A-dn	500-1 800-2 800-2 800-2	500-1 800-2 800-2 800-2	Within 0 mile make 180° left turn and climb to 5,000' on S course within 25 miles of LFR. CAUTION: 1,800' terrain 9 miles W of approach course 5 miles from range.

LFR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility: class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums: Condition	Type aircraft: 75 m. p. h. or less	Type aircraft: More than 75 m. p. h.	If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11
CHEYENNE, WYO. Cheyenne Municipal, 6,156' SBRAZ-VDT CYS and LOM-CY Procedure No. 2 August 17, 1954	Silver Crown FM	193—13.0 to LFR	8,000	N side E course: 076° outbound. 256° inbound. 7,300' within 15 miles E of ILS LOM.	7,300 (abeam ILS LOM*)	256—6.1 (from ILS LOM)	T-dn C-dn S-dn 26 A-dn	300-1 500-1 300-1 800-2	300-1 500-1½ 300-1 800-2	Within 6.1 miles after passing ILS LOM, climb to 7,500' on S course. Alternate missed approach when directed by ATC—climb to 7,500' on N course CYS LFR within 25 miles. *ILS LOM must be received on ADF freq. 219 kc. ident: CY.
DAGGETT, CALIF. Daggett Airport, 1,927' SBRAZ-DTV DAG Procedure No. 1 August 16, 1954	Daggett VOR	235—5.0	6,000	N side W course: 244° outbound. 064° inbound. 6,000' within 25 miles.	3,900	On airport	*T-dn C-dn A-dn	2,000-4 2,000-4 2,000-4	2,000-4 2,000-4 2,000-4	Within 0 mile climb to 9,000' on E course. *500-1 for take-offs on runways 3 and 7.
DELTA, UTAH. Municipal, 4,755' SBRAZ-DTV DTA Procedure No. 1 August 16, 1954	Delta VOR	303—3.5	7,000	W side of SW course: 188° outbound. 008° inbound. 7,000' within 15 miles. 8,000' within 25 miles.	5,800	018—3.6	T-d T-n C-dn A-dn	500-1 500-2 800-2 800-2	500-1 500-2 800-2 800-2	Within 3.6 miles climb to 11,000' on NE course.
KLAMATH FALLS, OREG. Klamath Falls Airport 4,088' SBRAZ-VDT LMT Procedure No. 1 August 16, 1954	Klamath Falls VOR	155—2.5	8,000	E side of S course: 162° outbound. 342° inbound. 8,000' within 12 miles. 15, 20 and 25 miles not authorized.	5,900	338—2.5	T-d T-n C-d C-n A-dn	1,500-1 1,500-2 1,800-1 1,800-2 1,800-2	1,500-1 1,500-2 1,800-1½ 1,800-2 1,800-2	Within 2.5 miles turn left climb to 9,000' on S course of Klamath Falls LFR within 15 miles of station.
	Modoc INT	162—15	9,000							
KNOXVILLE, TENN. McGhee-Tyson, 989' SBRAZ-VDT TYS Procedure No. 1 August 21, 1954	Piedmont FM	243—23	2,400	E side N course:* 354° outbound. 174° inbound. 3,000' within 15 miles.	2,000	197—2.7	T-dn C-d C-n A-dn	300-1 500-1 500-1½ 800-2	300-1 500-1½ 500-1½ 800-2	Within 2.7 miles climb to 3,000' on W (250°) course within 25 miles. *Nonstandard procedure turn due to prohibited area on W side of course.
	Tallassee FM	012—23	2,500							
	Inskip FM (Final)	174-11	2,000							
	Knoxville-BVOR	230—5	2,400							
LAFAYETTE, IND. Purdue University, 606' BMRLZ-VDT-LAF Procedure No. 1 April 20, 1954	PROCEDURE CANCELED JULY 30, 1954, AS LFR CONVERTED TO MHW.									
LAS VEGAS, NEV. Nellis AFB, 1,888' SBMRAZ-VDT LAS Procedure No. 1 August 16, 1954	Crystal FM	208—30.0	7,000	S side of SW course: 203° outbound. 023° inbound. 5,000' within 15 miles. 7,000' within 20 miles. 10,000' within 25 miles.	3,400	034—1.9	....	....	....	Within 0 mile climb to 7,000' on NE course within 20 miles.
	Goodsprings HW	023—33.0	7,500							
	Las Vegas VOR	012—10.0	5,100							
LAS VEGAS, NEV. McCarran Field, 2,171' SBMRAZ-DTV LAS Procedure No. 1 August 16, 1954	Goodsprings HW	023—33.0	7,500	S side of SW course: 203° outbound. 023° inbound. 5,000' within 15 miles. 7,000' within 20 miles. 10,000' within 25 miles.	3,700	196—10.2	T-dn C-dn A-dn	800-2 1,500-2 1,500-2	800-2 1,500-2 1,500-2	Within 0 mile climb to 7,000' on NE course within 20 miles of LFR. SHUTTLE: to 7,000' on NE and/or SW course within 20 miles of LFR. Turn S side of course.
	Las Vegas VOR	012—10.0	5,100							
SBMRAZ-DTV LAS BVOR-LAS Combination LFR/VOR Procedure No. 2	Good Springs HW	023—33	7,500	E side of NE course: 028° outbound. 208° inbound. 5,100' within 10 miles. 6,800' within 25 miles.	*4,600 LFR	See note*	T-dn C-dn A-dn	800-2 1,000-1 1,000-2	800-2 1,000-1½ 1,000-2	Within 0 mile after passing LAS VOR, turn left (S), climb to 7,000' on track of 070° within 25 miles LAS VOR. *After passing LAS LFR turn right to 225° then intercept and fly inbound track of 180° to the LAS VOR.
	LAS VOR	012—10	5,100		3,200 VOR					
LEWISTOWN, MONT. Lewistown Airport, 4,209' SBRAZ-DTV LWT Procedure No. 1 August 16, 1954	Stanford FM (final)	088—29.0	5,600	S side W course: 268° outbound. 088° inbound. 6,000' within 25 miles.	5,000	091—2.9	T-dn C-dn A-dn	300-1 700-2 800-2	300-1 700-2 800-2	Within 2.9 miles turn right climb to 6,000' on W course LWT LFR within 25 miles.
	Lewistown VOR	061—3.6	6,000							

LFR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility: class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft: 75 m. p. h. or less	Type aircraft: More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11
MISSOULA, MONT. Missoula County Airport, 3,203' SBMRAZ-DTV MSO Procedure No. 1 August 16, 1954	Alberton FM (final)	096—15.0	6,200	N side of NW course:* 276° outbound. 096° inbound. 8,000' within 10 miles. 8,300' within 15 miles. 9,000' within 25 miles.	6,200	120—1.5	T-dn C-dn A-dn	2,500-2 3,000-2 3,000-2	2,500-2 3,000-2 3,000-2	Within 1.5 miles turn right and climb to 9,000' on NW course 276° outbound within 10 miles of MSO LFR. *Procedure turn N for more favorable terrain.
PHOENIX, ARIZ. Sky Harbor, 1,124' SBMRAZ-DTV PHX Procedure No. 1 August 16, 1954	Perryville FM	081—29.0	2,600	S side E course: 081° outbound. 261° inbound. 2,600' within 15 miles. 4,100' within 25 miles.	2,100	261—1.8	T-dn C-d C-n A-dn	300-1 500-1 500-1½ 800-2	300-1 600-1½ 600-1½ 800-2	Within 1.8 miles climb to 5,000' on W course within 25 miles of LFR. SHUTTLE: To 5,000' on W or S course within 25 miles. CAUTION: Hills 2,000' high 5 miles S of airport.
	Phoenix VOR	261—5.0	2,600							
PRESCOTT, ARIZ. Municipal, 5,042' SBRAZ-VDT PRC Procedure No. 1 August 16, 1954	Prescott VOR	010—2.0	7,000	E side NW course: 322° outbound. 142° inbound. 7,000' within 10 miles. 8,000' within 25 miles.	,500	142—5.3	T-dn C-dn A-dn	800-2 1,000-2 1,000-2	1,000-2 1,500-2 1,500-2	Within 2 miles turn left, climb to 8,000' on NW course within 25 miles of LFR.
SAN FRANCISCO, CALIF. San Francisco International 11' SBMRLZ-DTV SFO Procedure No. 1 August 17, 1954	Bay Point FM	200—35.0	*3,000	E side of SE course: 108° outbound. 288° inbound. 1,500' within 15 miles. Beyond 15 miles not authorized.	#1,050	292—3.0	T-dn C-dn S-dn 28 A-dn	300-1 500-1 500-1 800-2	300-1 600-1½ 500-1 800-2	Within 2 miles, climb to 3,000' on NW course within 25 miles of SFO LFR. *When an altitude below 5,000' is used from the NE, flight as far as Oakland must be conducted via the NE course of Oakland LFR to provide adequate lateral clearance from Mt. Diablo (3,939' mean sea level). #If Belmont intersection is received, descent to 800' over LFR on final approach is authorized.
	NE course Moffett LFR	286—21.0	1,700							
	SFO VOR	287—23.0	1,700							
	Belmont intersection (intersection of SE course of SFO LFR and 333° bearing to SFO ILS LOM or 164° radial from OAK VOR) (final).	288—6.0	800							
	Half Moon Bay intersection.	030—11.0	3,000							
WINSLOW, ARIZ. Municipal 4,937' SBRAZ-VDT INW Procedure No. 1 August 17, 1954	----------	----------	----------	W side N course: 340° outbound. 160° inbound. 7,000' within 25 miles.	5,600	160—1.5	T-dn C-dn A-dn	300-1 500-2 800-2	300-1 600-2 800-2	Within 1.5 miles, climb to 7,000' on E course within 25 miles.

2. The automatic direction finding procedures prescribed in § 609.8 are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

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

If an ADF instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums: Condition	Type aircraft: 75 m. p. h. or less	Type aircraft: More than 75 m. p. h.	If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11
LAFAYETTE, IND. Purdue University, 605' MHW-LAF 227 kc. Procedure No. 1 July 30, 1954	Lafayette VOR	278—5.0	2,100	S side of course: 230° outbound. 050° inbound. 1,800' within 15 miles.	1,300	046—2.4	T-dn C-dn A-dn	300-1 700-1½ 800-2	300-1 700-1½ 800-2	Within 2.4 miles, climb to 2,000' on a track of 050° outbound within 25 miles. Return to facility at 2,100' on inbound track of 230°. Use nonstandard holding pattern and hold W of MHW facility. CAUTION: Unlighted stack 881' mean sea level located approximately 1.5 miles NE of airport.
	Intersection of NW course IND LFR and bearing of 270° to LAF MHW.	270—7.0	2,100							
SANTA FE, N. MEX. Santa Fe Municipal (new), 6,344' BMH-DTV SAF Procedure No. 1 February 1, 1951	PROCEDURE CANCELED, EFFECTIVE AUGUST 17, 1954.									

3. The very high frequency omnirange procedures prescribed in § 609.9 (a) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

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

If a VOR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums: Condition	Type aircraft: 75 m. p. h. or less	Type aircraft: More than 75 m. p. h.	If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11
KLAMATH FALLS, OREG. Klamath Falls, 4,088' BVOR-LMT Procedure No. 1 August 20, 1954	Intersection E course MFR LFR and 343° radial MFR VOR.	163—12.0	9,000	E side course: 155° outbound. 335° inbound. 8,000' within 14 miles. Beyond 14 miles not authorized.	5,900	On airport	T-d T-n C-d C-n A-dn	1,500-1 1,500-2 1,800-1 1,800-2 1,800-2	1,500-1 1,500-2 1,800-1½ 1,800-2 1,800-2	Within 0 mile turn left and climb to 9,000' on 155° outbound course within 14 miles Klamath Falls VOR.
	Klamath Falls LFR	335—2.5	8,000							
	Klamath Falls LFR (final).	335—2.5	5,900							
KNOXVILLE, TENN. McGhee-Tyson, 989' BVOR-TYS Procedure No. 1 August 21, 1954	Inskip FM	140—9	2,500	N side of course: 63° outbound. 243° inbound. 3,000' within 15 miles.	1,900 over VOR	222—7.7	T-dn C-d C-n A-dn	300-1 600-1 600-1½ 800-2	300-1 600-1½ 600-1½ 800-2	Within 7.7 miles after passing TYS BVOR climb to 3,000' on course of 250° within 25 miles. *Rockford Fix—Intersection 222° course from TYS-VOR and 090° bearing to TYS LFR; descent below 1,800' not authorized unless fix identified.
	Piedmont FM, (final)	243—18	1,900		1,600 over Rockford fix*	222—3.6				
	Knoxville LFR	050—5	2,400							
MOBILE, ALA. Bates Field, 217' BVOR-MOB Procedure No. 1 August 20, 1954				S side of course: 287° outbound. 107° inbound. 1,400' within 15 miles.	900	107—7.2	T-dn C-dn S-dn 9 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1 800-2	Within 7.2 miles, turn left, climb to 1,800' on a course of 064°.

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility: class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums: Condition	Type aircraft: 75 m. p. h. or less	Type aircraft: More than 75 m. p. h.	If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11
SANTA FE, N. MEX. Santa Fe Airport (new), 6,344' BVOR-SAF Procedure No. 1 August 23, 1954	....	....	....	E side of course: 152° outbound. 332° inbound. 8,100' within 25 miles.	7,700	332—4.8	T-d #T-n C-d #C-n S-d 33 S-n 33 #A-dn	*700-1 *700-1 1,300-1½ 1,300-2 700-1 700-1½ 2,000-2	700-1½ 700-1½ 1,300-2 1,300-2 700-1 700-1½ 2,000-2	Within 4.8 miles, turn right and climb to 10,000' on course 152° within 25 miles of SAF VOR. *500-1 day and 500-1½ night authorized on runways 30 and 15. #Night takeoff runway 28 and night landing runway 10, not authorized. SHUTTLE: To 8,100' on course of 152° (outbound) within 10 miles.
WINSLOW, ARIZ. Municipal, 4,937' BVOR-INW Procedure No. 1 August 17, 1954	....	....	....	N side of course:* 300° outbound. 120° inbound. 7,000' within 15 miles.	6,000	104—4.4	T-dn C-dn S-dn 10 A-dn	300-1 500-2 500-1 800-2	300-1 600-2 500-1 800-2	Within 4.4 miles, turn left, climb to 7,000' on course of 077° within 25 miles of INW VOR. SHUTTLE: To 8,000' on course of 120° outbound, 300° inbound within 25 miles. *Procedure turn N for more favorable terrain.

4. The instrument landing system procedures precribed in § 609.11 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

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

If an ILS instrument approach is conducted at the below named airport, it shall be in accordance with the following instruments approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specific routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below:

City and State; airport name, elevation; facility: class and identification; procedure No.; effective date	Transition to ILS: From—	Transition to ILS: To—	Transition to ILS: Course and distance	Transition to ILS: Minimum altitudes (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope interception inbound (ft.)	Altitude of glide slope and distance to approach end of runway at—: Outer marker	Altitude of glide slope and distance to approach end of runway at—: Middle marker	Ceiling and visibility minimums: Condition	Type aircraft: 75 m.p.h. or less	Type aircraft: More than 75 m. p. h.	If visual contact not established upon descent to authorized landing minimums or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11	12	13
CHEYENNE, WYO. Municipal, 6,156' ILS-CYS Procedure No. 1 August 17, 1954	CYS LFR........	LOM........	081—9.0	7,500	N side E course: 082° outbound. 262° inbound. 7,500' within 5 miles of LOM.	7,500	7,500—6.1	6,300—0.66	T-dn C-dn S-dn 26 A-dn	300-1 500-1 400-¾ 800-2	300-1 500-1½ 400-¾ 800-2	Climb to 7,500' on S course CYS LFR. Alternate missed approach—when directed by ATC, climb to 7,500' on N course of CYS LFR or to 7,500' on radial 348° from CYS VOR within 25 miles of respective station.
	Silver Crown FM........	LOM........	092—20.0	8,000								
	CYS VOR........	LOM........	119—7.0	7,500								

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Transition to ILS				Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope interception inbound (ft.)	Altitude of glide slope and distance to approach end of runway at—		Ceiling and visibility minimums			If visual contact not established upon descent to authorized landing minimums or if landing not accomplished
	From—	To—	Course and distance	Minimum altitudes (ft.)			Outer marker	Middle marker	Condition	Type aircraft: 75 m. p. h. or less	Type aircraft: More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11	12	13
DENVER, COLO. Stapleton Airfield, 5,331′ ILS-DEN LOM-DE Procedure No. 1 Combination ILS-ADF August 16, 1954	DEN LFR	LOM	099—9.0	7,000	N side E course: 7,000′ within 5 miles. 076° outbound. 256° inbound.	ILS 7,000	6,997—6.3	5,571—0.7	T-dn	300-1	300-1	Within 6.3 miles after passing LOM (ADF) turn right, climb to 6,300′ on N course DEN LFR within 20 miles. Alternate missed approach—when directed by ATC, turn right, climb to 6,600′ on E course DEN LFR. CAUTION: 5,928′ mean sea level radio tower 4.7 miles ESE of airport. 5,579′ mean sea level tank 0.9 mile SE MM.
	DEN VOR	LOM	161—7.0	7,000		ADF 7,000			C-dn ILS	500-1	500-1½	
	Aurora "H"	LOM	049—9.0	7,000					ADF	900-1	900-1½	
	Dupont Intersection	LOM	122—11.0	7,000					S-dn 26 L ILS	400-¾	400-¾	
	Intersection 242° magnetic course to DEN VOR and 215° magnetic bearing to LOM (see BEE Intersection).	LOM	215—16.0	7,000					ADF	900-1	900-1	
	Intersection E course ILS and S course DEN LFR.	LOM	076—7.0	7,000					A-dn ILS	800-2	800-2	
	Bennett Intersection (intersection 228° magnetic course from AKO VOR and 087° magnetic course from DEN VOR).	LOM	272—31.0	7,000					ADF	900-2	900-2	
KNOXVILLE, TENN. McGhee-Tyson, 989′ ILS-TYS LOM-TY ILS and ADF Procedure No. 1 Combination ILS-ADF August 21, 1954	Knoxville LFR	LOM	216—10.0	2,200	W side SW course: 225° outbound. 045° inbound. 2,300′ within 10 miles. Beyond 10 miles not authorized.	No glide slope. ILS and ADF 2,000′ over LOM	6.2	0.7	T-dn C-d C-n S-dn 4L A-dn	300-1 300-1 300-1½ 400-1 800-2	300-1 500-1½ 500-1½ 400-1 800-2	6.2 miles after passing LOM (ADF) turn left climb to 3,000′ on N course TYS-LFR, or turn left climb to 3,000′ on 345° course from VOR or when directed by ATC climb to 4,000′ on 063° course from LFR or VOR within 25 miles.
	Tallassee FM	LOM	353—14.0	2,500								
	SW course TYS-LFR and 110° on LOM.	LOM	110—8.0	2,300								
	Knoxville BVOR	OM	222—15.0	2,400								
MEDFORD, OREG. Medford, 1,330′ ILS-IMFR Procedure No. 1 August 16, 1954	Medford LFR	LOM	309—8.0	6,000	E side N course:* 320° outbound. 140° inbound. 6,000′ within 10 miles of Evans Creek FM.	6,000	2,959—5.4	1,541—0.7	T-dn C-dn S-dn 14 A-dn	300-1 1,000-2 500-1 1,000-2	300-1 1,000-2 500-1 1,000-2	Turn right climb to 6,000′ on N course ILS localizer within 5 miles of MFR-ILS. *Procedure turn on E side for more favorable terrain.
	Medford VOR	LOM	160—1.0	6,000								
SALT LAKE CITY, UTAH Salt Lake City No. 1 4,222′ ILS SLC Procedure No. 1 August 16, 1954	Salt Lake City LFR	N course ILS	163—0.0	6,000	E or W side S course: 163° outbound. 343° inbound. 80° reversal recommended for procedure turn.	6,000	5,560—4.6	4,440—0.6	*T-dn C-dn #S-dn 34 A-dn	300-1 500-1 400-¾ 800-2	300-1 600-1½ 400-¾ 800-2	Climb to cross SLC LFR not above 6,500′, then climb to 8,000′ on W course SLC LFR to Stansbury Intersection, then to 9,000′ on track of 335° to promontory point. Alternate missed approach when directed by ATC—Cross SLC LFR or VOR not above 6,500′, then climb to 11,000′ on W course SLC LFR or on 248° outbound track from SLC VOR. *500-2 required for takeoff runway 7. #500-1 required when glide slope and/or approach lights inoperative.
	Salt Lake City VOR	N course ILS	143—2.7	6,000								

ILS Standard Instrument Approach Procedure—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Transition to ILS: From—	Transition to ILS: To—	Transition to ILS: Course and distance	Transition to ILS: Minimum altitudes (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope interception inbound (ft.)	Altitude of glide slope and distance to approach end of runway at—: Outer marker	Altitude of glide slope and distance to approach end of runway at—: Middle marker	Ceiling and visibility minimums: Condition	Ceiling and visibility minimums: Type aircraft: 75 m.p.h. or less	Ceiling and visibility minimums: Type aircraft: More than 75 m.p.h.	If visual contact not established upon descent to authorized landing minimums or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11	12	13
SAN FRANCISCO, CALIF. San Francisco International 11' ILS-SFO LOM-SF Procedure No. 1 Combination ILS-ADF August 17, 1954	SFO LFR	*Belmont Int. (Via SE course SFO LFR)	108—6.0	1,700	No procedure turn as such authorized. All necessary maneuvering and descent shall be accomplished in accordance with and within the confines of the SFO LOM holding pattern. Final approach course: 100° outbound. 280° inbound.	1,700	1,660—6.4	230—0.66	T-dn C-dn	300-1 500-1	300-1 600-1½	Within 6.4 miles after passing LOM (ADF) climb to 3,000' on NW course of SFO LFR or on 285° track from LOM within 25 miles. *After passing through Belmont intersection, make left turn of 180° to intercept localizer course SE of LOM Inbound (280°). (Belmont intersection defined as: Intersection of SE course of SFO LFR and 333° bearing to SFO ILS LOM or 164° radial from OAK VOR.) Caution: High terrain SW of airport.
	SFO VOR	LOM	290—20.0	1,700			ADF 1,700		S-dn ILS 28R	400-¾	400-¾	
	Moffett LFR	LOM	299—18.0	1,700					ADF 28R/L	500-1	500-1	
	Newark FMHW	LOM	254—12.0	1,700					A-dn	800-2	800-2	
	OAK LFR	LOM	175—12.0	ILS 2,000 ADF 3,000								
	OAK VOR	LOM	167—11.0	ILS 2,000 ADF 3,000								

These procedures shall become effective on the dates indicated in Column 1 of the procedures.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAL]

F. B. Lee,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-6099; Filed, Aug. 16, 1954; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

Part 127—International Postal Service: Postage Rates, Service Available and Instructions for Mailing

GOLD AND GOLD CERTIFICATES

Amend § 127.22 *Gold and gold certificates* to read as follows:

§ 127.22 *Gold and gold certificates.* (a) Except as indicated in paragraphs (b) to (e) of this section with respect to fabricated gold and gold coin, the following shall not be accepted for mailing unless a license has been issued by the Treasury Department or an agency thereof, and the postmaster at the office of mailing has been specifically instructed by the Post Office Department, Bureau of Transportation, Division of International Service, in regard to their exportation:

(1) Gold certificates or gold in any form from the continental United States (that is, the States of the United States, the District of Columbia, and the Territory of Alaska) to any destination (domestic or international) outside the continental United States.

(2) Gold certificates or gold in any other form than gold coin (see Note) from a United States post office outside of continental United States to another country.

Note: Gold in any other form than coin is mailable without a license and specific instruction if it is not held or owned by a person who is a resident of or domiciled in the continental United States. In such a case the mailer must place on the wrapper of the package and on the shipper's export declaration when required (see § 127.88) a statement that the gold contained therein is held or owned by a person who is not a resident of or who is not domiciled in, the continental United States.

If fabricated gold is offered for mailing, the accepting employee shall be governed by paragraphs (b), (c), and (d) of this section.

(b) Fabricated gold, as defined in paragraph (c) of this section, may be accepted for mailing without being licensed by the Treasury Department and without specific instructions from the Post Office Department, Bureau of Transportation, Division of International Service. However, the shipper is required to endorse the wrapper of the package with the Bureau of Census Schedule B statistical classification number of each specific commodity contained therein. The shipper's export declaration, when required (see § 127.88), shall contain, in addition to a specific description of the contents of the package, the following notation, "Fabricated gold as defined by § 54.4 of the Gold Regulations (31 CFR 54.4), being exported pursuant to the authorization contained in § 54.25 (b) (2) of such regulations."

(c) Fabricated gold is defined by the Treasury Department as processed or manufactured gold in any form (other than gold coin or scrap gold) which has a gold content the value of which does not exceed 90 percent of the total domestic value of the processed or manufactured gold and which has in good faith and not for the purpose of evading or enabling others to evade the provisions of the Gold Reserve Act of 1934, the act of October 6, 1917, as amended, or the regulations of the Treasury Department, been processed or manufactured for some one or more specific and customary industrial, professional, or artistic uses. The basis by which prospective shippers may determine the value of the gold content and the total domestic value of an article of processed or manufactured gold is set out in paragraph (d) of this section. (Fabricated gold is to be distinguished from semiprocessed gold, which may be exported only pursuant to Treasury License, and which is defined to include gold articles of which more than 90 percent of the total domestic value is attributable to the gold content thereof.)

(d) While no obligation is imposed upon postal employees to attempt to determine whether an article is semiprocessed or fabricated gold, as defined in paragraph (c) of this section, interested patrons may be informed that to make such a determination the value of the gold content is computed at $35 per fine troy ounce of gold and the total domestic value is determined on the basis of the cost of the article to the owner and not the selling price. In the case of a manufacturer or processor, the allowable elements of such value are the cost of material in the article, labor performed on the article, and processing losses and overhead applicable to the manufacture or processing of such article. In the case of a dealer or other person who holds or disposes of gold without further processing, total domestic value includes only the net purchase price paid by such person and any transportation costs incurred in obtaining delivery of such article to his usual place of business.

(e) Gold coin made prior to April 5, 1933, may be accepted for mailing without being licensed by the Treasury Department and without specific instructions from the Post Office Department, Bureau of Transportation, Division of International Service. However, the shipper's export declaration, when required (see § 127.88), shall contain, in addition to a specific description of the contents of the package, the following notation, "Rare gold coin as defined by § 54.20 of the Gold Regulations (31 CFR 54.20), being exported pursuant to the authorization contained in § 54.25 (b) (3) of such regulations."

(f) The acceptance in the regular mails or parcel post for any country of any consignment of gold coin, gold bullion, or gold dust, having a value in excess of $100 is prohibited, even though a license has been granted to export such gold coin, gold bullion, or gold dust.

(g) Prospective shippers may obtain the forms on which to apply for licenses to export gold from the Bureau of the Mint, Treasury Department, Washington 25, D. C.

(R. S. 161, 396, 398; secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] ABE MCGREGOR GOFF,
The Solicitor.

[F. R. Doc. 54-6340; Filed, Aug. 16, 1954; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Subchapter S—Rights-of-Way

[Circular 1876]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

MISCELLANEOUS AMENDMENTS

1. Paragraph (a) (1) of § 244.6 is amended to read as follows:

§ 244.6 *Documents which must accompany application*—(a) *Maps.* * * *

(1) The scale should be 2,000 feet to the inch for rights-of-way for such structures as canals, ditches, pipelines, and transmission lines and 1,000 feet to the inch for rights-of-way for reservoirs, except where a larger scale is required to represent properly the details of the proposed developments, in which case the scales should be 1,000 feet to the inch and 500 feet to the inch, respectively. For electric transmission lines having a nominal voltage of less than 33 kv. map scales may at option of the applicant be 5,280 feet to the inch.

2. Paragraph (b) of § 244.8 is amended to read as follows:

§ 244.8 *Commencement of construction work in advance of approval of right-of-way; trespass.* * * *

(b) Any grant of advance permission is solely for the convenience of the applicant and is not a commitment by the Department that a right-of-way will be approved. The Department's authority in acting on a right-of-way application is not restricted in any way by the grant of advance permission or any requirements laid down in such grant of permission and the Department may impose additional or different requirements, within the scope of the applicable statute and lawful regulations thereunder, as conditions precedent to the approval of the right-of-way. A grant of advance permission is revocable at will, and the grantee assumes all the risk of operating under such permission.

3. Paragraphs (a), (h), (l), and (m) of § 244.9 are amended to read as follows:

§ 244.9 *Terms and conditions.* * * *

(a) To comply with State and Federal laws applicable to the project for which the right-of-way is approved, and to the lands which are included in the right-of-way, and lawful existing regulations thereunder.

* * * * *

(h) To comply with such other specified conditions, within the scope of the applicable statute and lawful regulations thereunder, with respect to the occupancy and use of the lands as may be found by the agency having supervision of the lands to be necessary as a condition to the approval of the right-of-way in order to render its use compatible with the public interest.

* * * * *

(l) That the allowance of the right-of-way shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the lands affected thereby, and that he agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the right-of-way not actually occupied or required by the project, or the full and safe utilization thereof, for necessary operations incident to such management, administration, or disposal.

(m) That the right-of-way herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United States.

4. Paragraphs (a) and (f) of § 244.21 are amended to read as follows:

§ 244.21 *Payment required; exceptions; default; revision of charges.* (a) The charge for use and occupancy of public and reservation lands for rights-of-way for telephone, telegraph, and power transmission lines, water pipelines, ditches or canals under the act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959); telephone, telegraph, and power transmission lines under the act of March 4, 1911 (36 Stat. 1253; 43 U. S. C. 961); tramroads under the act of January 21, 1895 (28 Stat. 635; 43 U. S. C. 956); oil and gas pipelines under section 28 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 449), as amended August 21, 1935 (49 Stat. 678; 30 U. S. C. 185); and water pipelines, ditches, flumes, tunnels, or canals under section 4 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 524), shall be at the rate of five dollars ($5) per mile or fraction thereof per calendar year or fraction thereof for rights-of-way not over 100 feet in width and one dollar ($1) per mile or fraction thereof for each additional 20 feet or fraction thereof in width.

* * * * *

(f) At any time not less than five years after either the approval of the right-of-way or the last revision of rental charges thereunder, the regional administrator, after reasonable notice and opportunity for hearing, may review such charges and impose such new charges as may be reasonable and proper commencing with the ensuing calendar year.

(R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201)

5. Paragraph (a) of § 244.41 is amended to read as follows:

§ 244.41 *Applications which may be submitted under the acts of February 15, 1901, and March 4, 1911.* (a) All applications where it is sought to acquire a right-of-way for the main purpose of irrigation, as contemplated by sections 18 to 21 of the act of March 3, 1891 (26 Stat. 1101; 43 U. S. C. 946-949), and section 2 of the act of May 11, 1898 (30 Stat. 404; 43 U. S. C. 951), must be submitted under the 1891 and 1898 acts, in accordance with the applicable regulations in this part.

6. Paragraph (b) of § 244.43 is amended to read as follows:

§ 244.43 *Transmission lines.* * * *

(b) A description of the transmission line of which the line for which a right-of-way is requested forms a part, giving in reasonable detail the points between which it will extend, its characteristics and purpose. There must also be included a statement as to the voltage for which the line is designed and at which it is to be operated initially, and a statement as to whether it is to serve a single customer, or a number of customers, or is intended to transmit power solely for the applicant's use. If the line is to serve a single customer or is for the applicant's own use, the nature of such use must be given (such as airway beacon, coal mine, and irrigation pumps).

7. Paragraph (c) of § 244.43 is deleted.

8. Paragraph (b) of § 244.44 is amended to read as follows:

§ 244.44 *Terms and conditions.* * * *

(b) Neither the privilege nor the right to occupy or use the lands for the purpose authorized shall relieve him of any legal liability for causing inductive or conductive interference between any project transmission line or other project works constructed, operated, or maintained by him on the servient lands, and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof.

9. Paragraphs (c) and (d) of § 244.44 are deleted.

(31 Stat. 790, 36 Stat. 1253; 43 U. S. C. 959, 961)

RALPH A. TUDOR,
Acting Secretary of the Interior.

AUGUST 11, 1954.

[F. R. Doc. 54-6333; Filed, Aug. 16, 1954; 8:45 a. m.]

Appendix C—Public Land Orders

[Public Land Order 988]

IOWA

RESERVING CERTAIN PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE ARMY AND PARTIALLY REVOKING EXECUTIVE ORDER NO. 4519 OF OCTOBER 2, 1926

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

Subject to valid existing rights, the following-described lands in Iowa are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved under the supervision of the Department of the Army for use in connection with the improvement of navigation in the Mississippi River, as authorized by the act of July 3, 1930 (46 Stat. 918) and prior river and harbor acts.

FIFTH PRINCIPAL MERIDIAN

T. 92 N., R. 2 W.,
Sec. 29; unnumbered lot in the NE¼NE¼ at north end of bayou containing 4.40 acres.

Executive Order No. 4519 of October 2, 1926, reserving certain lands as part of the upper Mississippi River Wildlife and Fish Refuge is hereby revoked so far as it affects the above-described lands.

Notice of the withdrawal was purlished March 6, 1954, in 19 F. R. 1936.

ORME LEWIS,
Assistant Secretary of the Interior.

AUGUST 10, 1954.

[F. R. Doc. 54-6336; Filed, Aug. 16, 1954; 8:46 a. m.]

[Public Land Order 989]

OREGON

RESERVING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE INTERIOR AS EAGLE CREEK FISH CULTURAL STATION

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, and in furtherance of the purposes of and in accordance with the act of August 14, 1946 (60 Stat. 1080; 16 U. S. C. 661), it is ordered as follows:

Subject to valid existing rights, the following-described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws but not the mineral-leasing laws, and reserved for use by the Fish and Wildlife Service of the Department of the Interior as the Eagle Creek Fish-Cultural Station, provided, that the timber resources on the lands shall be subject to management and disposal by the Bureau of Land Management, Department of the Interior, pursuant to applicable laws:

WILLAMETTE MERIDIAN

T. 3 S., R. 5 E.,
Sec. 26, NE¼NW¼;
Sec. 27, NE¼, SW¼, N½SE¼;
Sec. 28, N½S½.

The areas described aggregate 600 acres.

The reservation made by this order shall be subject to existing withdrawals of the lands for power purposes so far as they affect any of the lands.

Notice of the withdrawal was published April 29, 1954, in 19 F. R. 2501.

ORME LEWIS,
Assistant Secretary of the Interior.

AUGUST 10, 1954.

[F. R. Doc. 54-6335; Filed, Aug. 16, 1954; 8:45 a. m.]

[Public Land Order 990]

OREGON

RESERVATION OF LANDS WITHIN NATIONAL FORESTS AS ADMINISTRATIVE SITES, RECREATION AREAS, OR FOR OTHER PUBLIC PURPOSES

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-public lands within the following-described areas within certain national forests as hereinafter designated are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws but not the mineral-leasing laws, and reserved as administrative sites, recreation areas, or for other public purposes as indicated:

WILLAMETTE MERIDIAN

MT. HOOD NATIONAL FOREST

Bagby Springs Recreation Area

T. 7 S., R. 5 E.,
Sec. 26, SW¼NW¼;
Sec. 27, SE¼NE¼.

The areas described aggregate 80 acres.

ROGUE RIVER NATIONAL FOREST

Beaver-Sulphur Forest Camp

T. 40 S., R. 3 W.,
Sec. 2, SW¼SW¼;
Sec. 10, NE¼NE¼.

The areas described aggregate 80 acres.

McKee Bridge Forest Camp

T. 40 S., R. 3 W.,
Sec. 4, lot 4.

The area described contains 39.23 acres.

West Side Klamath Recreation Area

T. 36 S., R. 6 E.,
Sec. 10, S½SW¼NE¼NW¼, NW¼SE¼NW¼, N½SW¼SE¼NW¼, SE¼SW¼SE¼NW¼, SW¼SW¼, Lots 5 and 6;
Sec. 24, NE¼ (unsurveyed).

The areas described aggregate 262.50 acres.

UMATILLA NATIONAL FOREST

Wenaha Forks Forest Camp

T. 6 N., R. 40 E.,
Sec. 34, SE¼.

The area described contains 160 acres.

Woodward Forest Camp

T. 4 N., R. 38 E.,
Sec. 32, E½SW¼.

The area described contains 80 acres.

Buck Creek Forest Camp

T. 3 N., R. 37 E.,
Sec. 22, W½SW¼.

The area described contains 80 acres.

Olive Lake Forest Camp

T. 9 S., R. 34 E.,
Sec. 14, W½SW¼;
Sec. 22, lot 1, NE¼NE¼.

The areas described aggregate 159.35 acres.

UMPQUA NATIONAL FOREST

Umpqua Hot Springs Recreation Area

T. 26 S., R. 4 E. (unsurveyed)
Sec. 20, NE¼, E½NW¼, NE¼SW¼, N½SE¼.

The area described contains 360 acres.

Cedar Creek Recreation Area

T. 22 S., R. 1 E.,
Sec. 8, S½N½, N½S½, E½SE¼SE¼;
Sec. 9, W½SW¼.

The areas described aggregate 420 acres.

Low Bridge Recreation Area

T. 22 S., R. 1 E.,
Sec. 26, E½E½SW¼, W½W½SE¼.

The area described contains 80 acres.

Lund Park Recreation Area

T. 22 S., R. 1 E.,
Sec. 22, SW¼NW¼NE¼, S½NE¼, SE¼NE¼NW¼.

The area described contains 100 acres.

Dog Creek Recreation Area

T. 22 S., R. 1 E.,
Sec. 16, E½SW¼NE¼, W½SE¼NE¼.

The area described contains 40 acres.

Crawfish Creek Recreation Area

T. 22 S., R. 1 E.,
Sec. 16, W½ lot 3, E½ lot 4.

The area described contains approximately 23 acres.

Francis Creek Recreation Area

T. 29 S., R. 1 W.,
Sec. 34, lots 1 and 2, NE¼NW¼.

The area described contains 117.29 acres.

Diamond Lake Recreation Area

T. 27 S., R. 5 E. (unsurveyed)
Sec. 25, S½SE¼, SE¼SW¼;
Sec. 36, W½E½, E½W½.

T. 27 S., R. 6 E.,
Sec. 29, S½SW¼;
Sec. 30, lots 4 and 5, S½SE¼;
Sec. 31, lots 1, 2 and 3;
Sec. 32, lots 1, 2, 3, 4 and 5, N½NW¼.
T. 28 S., R. 5 E. (unsurveyed)
Sec. 1, E½;
Sec. 12, E½;
Sec. 13, NE¼.
T. 28 S., R. 6 E. (unsurveyed)
Sec. 4, W½;
Sec. 9, W½;
Sec. 16, NW¼;
Sec. 17, N½;
Sec. 18, NE¼.

The areas described aggregate approximately 3,041.90 acres.

WHITMAN NATIONAL FOREST

Boulder Park Recreation Area

T. 6 S., R. 43 E.,
Sec. 1, W½;
Sec. 2, lots 1 and 2, S½NE¼.

The areas described aggregate 484.60 acres.

Two Color Administrative Site

T. 6 S., R. 43 E.,
Sec. 15, NW¼.

The area described contains 160 acres.

Moss Springs Forest Camp

T. 3 S., R. 41 E.,
Sec. 27, NW¼.

The area described contains 160 acres.

Dixie Forest Camp

T. 12 S., R. 34 E.,
Sec. 11, W½SW¼, W½W½E½SW¼.

The area described contains 100 acres.

This order shall be subject to existing withdrawals for power purposes so far as they affect any of the above-described lands.

Notice of the withdrawal was published April 28, 1954, in 19 F. R. 2479.

ORME LEWIS,
Assistant Secretary of the Interior.

AUGUST 11, 1954.

[F. R. Doc. 54-6334; Filed, Aug. 16, 1954; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 923]

[Docket No. AO 251]

HANDLING OF MILK IN APPALACHIAN MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Appalachian marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington, D. C., not later than the close of business on the 15th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on the record of which the recommended marketing agreement and order were formulated was called by the Agricultural Marketing Service, United States Department of Agriculture, following receipt of a petition filed by the Tri-State Milk Producers Association, Inc., and East Tennessee Milk Producers Association, Inc. The hearing was held at Bristol, Virginia, February 1-6 and 8-10, 1954, pursuant to notice duly published in the FEDERAL REGISTER on January 16, 1954 (19 F. R. 297). The period until March 23, 1954, was reserved to interested parties for the filing of briefs on the record.

The material issues of record related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a marketing agreement or order; and

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

(a) The scope of regulation;

(b) The classification of milk;

(c) The level and method of determining class prices;

(d) The method to be used in distributing proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, it is hereby found and concluded that:

1. *Character of commerce.* The handling of milk in the Appalachian marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The proposed marketing area embraces portions of three States: namely, Tennessee, Virginia and Kentucky. Milk handled in the marketing area moves in large volumes and in many forms back and forth over State lines. The production areas from which milk is received by the various handlers who would be regulated overlap State boundaries. Milk from the farms of many producers in southwestern Virginia goes to plants in Tennessee and Kentucky where it is bottled for distribution to consumers. Part of this milk is moved out of the State directly from the farms. Some of it is received from producers at country stations in Virginia and moved in bulk to the Tennessee and Kentucky plants. Milk from Tennessee and Kentucky farms of producers as defined under the proposed order likewise finds its way across State boundaries. In addition, milk sold for fluid distribution in the marketing area is received in tank lots by plants serving the marketing area from points in Ohio and Indiana.

Testimony at the hearing indicates that of the Grade A milk produced in southwestern Virginia which would be priced under the proposed order more than half is distributed outside the State. Milk packaged for retail distribution is moved from each section of the marketing area (in Virginia, Tennessee, and Kentucky) across State lines. The greatest volume of interstate movement of milk on routes in the proposed area is carried out by the operation of routes throughout the city of Bristol, which is one of the primary markets of the area. Here the Virginia-Tennessee State line is located along the main street of the city. Milk plants on both sides of this line service consumers throughout the city. Retail and wholesale routes from plants which would be subject to the order cross the Virginia-Tennessee line elsewhere, and also, the Kentucky-Virginia State lines.

Manufactured milk products made from excess milk in the plants of handlers are sold in many States throughout the southeastern portion of the country.

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

There is no overall plan whereby farmers supplying the Appalachian marketing area are assured of payment for their milk in accordance with its use. Neither is there a procedure whereby farmers may participate in the price determinations throughout the area necessary for the marketing of their milk, which because of its perishability must be delivered to the market daily as it is produced.

A marketing order as proposed will promote orderly marketing by assuring producers prices equivalent to those contemplated under the act. Prices paid farmers for milk for fluid use have frequently been below the Class I prices an order would provide. Many of the farmers do not know how their milk is utilized at the various plants to which they deliver, or whether the basis on which they are being paid from month to month will be revised. In some instances, farmers are notified of price changes some days after such changes had been made effective by the handler. Accuracy of weights and butterfat tests of milk have been ascertained infrequently.

The major handlers in the market have refused or failed to recognize or to bargain with duly constituted cooperative associations as to price, or any other terms with respect to the sale of the milk of such associations.

Several handlers in the area have dealt with farmers in such a way as to discourage cooperative action by these farmers. Some handlers refused to make deductions for cooperative dues from payments due their producers, even though such deductions had been properly authorized by the producers. Failure to make such deductions has limited the cooperatives in instituting check weighing and testing programs. Representation by farmers shipping to one of the large handlers in dealing with the handler in matters affecting farmers was instituted under the auspices of the handler. Such effectiveness as the farmers were able to manifest in negotiating with the handler to further producer interests was limited in scope. While this handler-sponsored producer association may have contributed to the maintenance of goodwill in the producer-handler relations, it was not in a position to act as an independent producer organization in negotiating prices, or otherwise to act in behalf of producers in the marketing of their milk.

Prices paid to producers throughout the marketing area are generally at the option of the handler. The record indicates that prices are, in some instances, arbitrarily arrived at, and many farmers do not have any assurance of any price at all for their milk. All handlers in the market do not pay on the same basis. One of the larger handlers pays producers a flat price for their milk without regard to butterfat test or the way in which it is used. In those instances that handlers purportedly pay on the basis of the way milk is utilized, no complete systematic verification is made.

The stated Class I prices paid producers by the various handlers in the area are frequently not meaningful. Although all milk received from a producer at a plant may be sold for fluid consumption, the price he receives could be, and usually is, less than a Class I price because of the various pricing schemes followed by handlers in the market. In some cases, bottled milk and milk products moved beyond a specified distance from the bottling plant return a lesser price to producers. Sales on special contracts and buttermilk sales frequently bring producers prices at a level nearer the condensery price than the Class I price.

Milk is often imported into the area from outside sources at times when considerable volumes of producer milk are used in Class II. Producers lose Class I sales to such imports which may be obtained as excess milk from other markets.

There is little uniformity in the base rules of handlers in the different sections of the milkshed that apply with respect to base and excess plans used in paying producers. Transfer of producers between plants is restricted because of the diversity in application of each of the plans by the various handlers. A new producer coming into the market, as well as an established producer transferring between plants, is uncertain as to his status with respect to the basis on which he will be paid during much of the year. Likewise, uncertainty exists as regards establishing bases, transferring bases or resolving unusual situations which arise in connection with the operation of base and excess plans.

The Virginia Milk Commission fixes prices with respect to a portion of the milk purchased in that section of the proposed marketing area which lies in Virginia.

Effective August 1, 1949, an order designated "Rules and Regulations for the Supervision and Control of the Southwest Virginia Milk Market" was issued by the Commission. This order, which has been amended twice since its issuance, provides for minimum prices which handlers must pay base-holding producers, and the minimum prices at which milk may be sold by handlers to retail and wholesale customers.

In the summer of 1953, it became apparent that the Commission was not in a position to enforce its regulations when milk moved across State lines. Some milk from southwest Virginia producers was forced into surplus disposition as its usual outlets for fluid use were displaced by outside milk. The scope of regulation by the Virginia Milk Commission was clarified when a decision was rendered in 1953 by the Supreme Court of Virginia to the effect that the State Milk Commission may fix prices only on that milk sold for consumption in Virginia.

Southwest Virginia handlers who receive milk from Virginia producers for distribution both inside and outside the State are required by the Commission's order to pay producers a prescribed minimum price for milk sold for consumption in Virginia. Since the price of milk which such handler distributes outside Virginia is not fixed by any regulation, the blend price which he pays to his Virginia producers may well be significantly less than the blend calculated at the minimum prices fixed by the Commission. Although the arithmetical calculation of the handler may show that he paid the prescribed minimum prices for milk sold in Virginia, he is not restrained from applying an arbitrary price to milk distributed outside the State to arrive at a predetermined producer pay price.

Various classification designations prevail throughout the Appalachian marketing area. Even under the purported classification schemes, prices paid producers for their deliveries are not based on actual utilization of the milk delivered by them to handlers. Milk sold for fluid consumption in various forms or under various conditions is frequently designated as other than Class I under the prevailing classification systems and paid for at prices lower than the stated Class I prices.

Although buttermilk sales are a substantial portion of the total fluid sales in the market, comparatively little of the skim milk and butterfat used in the manufacture of buttermilk is paid for at the Class I price. The Virginia Milk Control Commission order for southwestern Virginia provides that the whole milk equivalent of butterfat in buttermilk sold shall be Class I. Since there are generally negligible quantities of butterfat in buttermilk, the major portion of skim milk utilized in buttermilk under the jurisdiction of the Commission is not paid for as Class I. Some handlers in the Tennessee portion of the marketing area buying from producers on a classification basis classify buttermilk sales as Class I-B and price such classification at 50 cents above the local condensery price. As with buttermilk, producers are not given full consideration for the sales of flavored milk and skim milk drinks in Class I. While some producers in the area may receive a Class I price for their deliveries which are used in the manufacture of buttermilk and flavored milk drinks, numerous producers in the area receive practically manufacturing prices for their deliveries utilized in these fluid outlets.

Sales by handlers to large outlets, such as government agencies and factories, are classified and paid for at prices below the stated Class I price. Such sales are made on the basis of contracts, which are let on bids. One handler representative testified that a I-A classification was established at his plant for such sales to dispose of producer surplus. Bidding on such contracts at these lower prices was necessary, it was contended, in order to obtain the contracts away from other handlers.

As handlers compete with each other on the various bids, returns to producers may be expected to decline. There is no practical limit short of the surplus price to which such bids may go, and no limit as to the size of sale which may be involved. Producers testified that handlers take on additional producers when they obtain such contracts, and consequently, the overall producer blend is lowered. The decline in producer returns is further accelerated as the total sales by handlers to such contract buyers continue to increase, as they have during the past year.

Prices to producers for milk sold by handlers as "contract milk" have been as much as $1.50 per hundredweight below the stated Class I price. In those instances where some producer milk was paid for in a special class as contract milk, producers did not always have information relative to the places to which such sales were being made, the quantities of milk and milk products so disposed of, or the extent to which such sales were made at prices below those prevailing in the area.

The practice of handlers to cut prices paid producers on milk sold on special bids in order to be in a position to underbid competition is tending to create unstable conditions in the market. While this practice might be rationalized by a handler on the basis that it would enable him to dispose of surplus, the same handler would be required to receive additional milk to meet the added demand for his milk if he is to serve such outlets throughout the year. A further dilution of the blend price to his producers would result if the handler failed to obtain renewal of the contract.

A price of $4.50 per hundredweight was paid producers for milk sold by a local handler on a special bid. A handler under the Knoxville order who previously had served the account would have been required to pay the Class I price under that order, which was $6.68 during the period covered by the bid. Stated Class I prices in the Appalachian area during the same period were $5.95 to $6.55 per hundredweight. Nevertheless, the handler contended it was necessary to pay producers the lower price in order to obtain the contract.

The record indicates that there is a lack of detailed market information for this area. Such information is essential to the effectuation of orderly marketing and in achieving a level of Grade A milk production commensurate with consumer demand for Grade A fluid products. Some data on receipts and utilization of milk for fluid and manufacturing uses is made available by the Virginia Milk Commission. This information pertains to only one segment of the area, however, and it does not portray marketing conditions for the whole area.

It is concluded that the issuance of a marketing agreement and order for the Appalachian marketing area would contribute substantially to the improvement of many of the conditions complained of and tend to effectuate the declared policy of the act. The adoption of a classified price plan based on the audited utilization of handlers will provide a uniform system of minimum prices to handlers for milk purchased from producers and a fair division among all producers of the returns from Class I sales. The public hearing procedure required by the Agricultural Marketing Agreement Act will provide opportunity for representation of producers, handlers and the public in the determination of prices and marketing conditions for milk in the area.

3. *Order provisions*—(a) *Scope of regulation; marketing area.* The marketing area should include all the territory within the counties of Greene, Washington and Sullivan in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky.

The milk which is distributed in these counties is handled almost entirely from plants located within the counties. The primary outlets for the Class I milk of these plants are in this proposed area.

The handlers who would be regulated pursuant to the attached order are in competition throughout the marketing area. Milk plants located in the Virginia portion of the proposed area distribute a large share of their milk in Tennessee and Kentucky while handlers in the Tennessee and Kentucky portions of the recommended area distribute milk in Virginia. All of the handlers who would be subject to the order are subject to similar or the same market conditions with respect to alternative sources and outlets for milk.

Milk sold for Grade A consumption must be approved by health authorities in each of the respective portions of the marketing area. The movements of milk from one section of the area to the other take place with the approval of the appropriate health authorities. The health ordinances and the practices and procedures of the health authorities throughout the marketing area are generally patterned so as to be in accordance with the United States Public Health Service Milk Ordinance. Ratings by the United States Public Health Service are recognized by local health authorities as a basis for accepting milk from outside sources. Reciprocal agreements on farm inspections and on finished Grade "A" milk products for distribution prevail between the various health authorities in the area. It is concluded, therefore, that the milk to be priced under the proposed order is interchangeable and the degree of similarity of minimum health standards throughout the area justifies uniform regulations for the milk marketed throughout the area.

The marketing area should be defined on the basis of county rather than city boundaries. Substantial portions of the fluid milk marketed in the area are represented by sales to outlets located outside city boundaries. Also, health ordinances for cities and counties are administered by the same health authority throughout most of the area.

It was proposed that Smyth County, Virginia, be included in the marketing area. The record discloses that this county does not represent an important outlet for milk for handlers serving the proposed area. Also, a separate order for Smyth and Wythe Counties has been administered by the Virginia Milk Commission. The prices fixed by the Commission for milk in these two counties have been somewhat above those herein recommended for the Appalachian marketing area. It is concluded that handlers regulated pursuant to the proposed order will not be at a disadvantage with respect to sales of milk in Smyth County if it is not included in the marketing area.

Certain handlers testified that they distribute Class I milk in counties in addition to those proposed to be included in the marketing area. Since these counties were not proposed as part of the marketing area in the notice of hearing they may not be included under regulation at this time. Extension of the regulation to these areas would bring additional handlers under regulation who in turn have important sales outlets which would be unregulated. It is concluded that the volume of milk sold outside the marketing area from pool plants as defined under the proposed order is not sufficient nor marketing conditions in these areas such that their exclusion would be inappropriate or unjustified at this time.

Designation of plants and milk to be subject to regulation. Provision should be made in the order to designate clearly what milk will be subject to pricing provisions of the order. For this reason, definitions of handlers, milk plants, producers, producer milk, and other source milk should be provided. Such definitions will permit unequivocal reference to these persons or items throughout the order.

The term "handler" should be used to designate the operator of an approved plant under the order. Handlers are the persons who should be required to report the receipts and utilization of milk the handling of which is regulated and should be held responsible for paying producers for milk in accordance with the terms of the order. In case a person operates more than one plant at which milk is to be priced, he should be a handler with respect to the combined operations of such plants. If the handler operates a plant not associated with the regulated market, he would not be a handler with respect to such plant. Producer-handlers and operators of approved plants which do not qualify as fluid milk plants should be considered handlers in order to require such persons to report to the market administrator as is needed to determine their status.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants primarily engaged in supplying fluid milk for sale on retail and wholesale routes in the marketing area. Such plants would be defined as "fluid milk plants."

A fluid milk plant under the attached order would be any plant from which a volume of Class I milk equal to an average of more than 1,000 pounds per day or more than 2.0 percent of the approved milk of such plant is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other fluid milk plants) located in the marketing area. Such a plant would be considered a distributing plant.

Plants supplying Grade A milk, skim milk or cream to distributing plants would be fluid milk plants under certain circumstances. A supply plant which receives milk from farmers holding dairy farm permits or ratings issued by an appropriate health authority having jurisdiction in the marketing area would be a fluid milk plant in any month during which milk, skim milk or cream is moved from such plant to a distributing plant regulated pursuant to the order. Other supply plants would be fluid milk plants in any of the months of February through July during which any Grade A milk or skim milk is shipped to a distributing plant regulated pursuant to the order. Plants coming under the order because of shipments to distributing plants would be considered supply plants.

It would be inappropriate to extend regulation to any milk plant from which only minor quantities of milk are distributed in the marketing area. Such plants are selling primarily in competition with milk of unregulated handlers outside the marketing area. Regulation of such plants might place them in an uneconomic and unfavorable position with respect to sales outside the marketing area. So long as the limits as to sales such a plant may make in the marketing area are kept relatively low, the volume of unpriced milk in the market would not present an unstabilizing force in the market.

It is concluded that this limit should be placed at 2.0 percent of the Grade A milk received at such plant from all sources or an average of 1,000 pounds of Class I milk a day, whichever is less. Any plant from which a volume of Class I milk equal to more than 1,000 pounds per day or 2.0 percent of its receipts of Grade A milk, skim milk or cream is disposed of in the marketing area should be designated as a distributing plant and fully subject to regulation.

Any plant from which Class I milk is distributed in the marketing area, but which does not meet the standards for a fluid milk plant, should be defined as an "approved plant" and be required to file reports and submit to audits by the market administrator to verify the status of such plant.

Throughout the year distributing plants, as herein defined, receive supplemental supplies of milk from supply plants. Some of these supply plants are associated with the market as a regular part of its supply, and the dairy farmers delivering to such plants hold dairy farm permits or ratings issued by health authorities having jurisdiction in the marketing area. Supply plants in this category should be included within the definition of a fluid milk plant throughout the year so long as they are used as sources of supply by distributing plants.

In the case of supply plants which are not under the routine inspection of health authorities in the marketing area a different standard should be used. Such plants normally provide supplemental milk to distributing plants in various other sales areas, and their shipments to the Appalachian area for Class I use are primarily seasonal in nature. To the extent these plants furnish only needed supplemental milk in months of low production they should not be brought under regulation. The fact that such milk will not be priced in the months of low production would not represent a threat to the stability of the regulated market. However, if shipments are made from such supply plants to distributing plants during the flush production months, they should be brought under regulation and made fully subject to the pricing provisions of the order. This provision would place such a plant on the same competitive level of pricing and subject it to the same regulatory requirements during these months as are applicable to plants which supply the market the year round. Plants subject to other orders issued pursuant to the act should not be made subject to the pricing provisions of this order.

If a portion of a plant is operated separately and no approved milk is received in such portion of the plant, the nonapproved portion should not be considered as part of a fluid milk plant. However, if any Grade A milk is handled in that portion of the plant in which ungraded milk is received, the over-all operation of the plant would be considered as that of a fluid milk plant and any Class I disposition therefrom should be credited first to producers.

"Producer" should be defined as any person, other than a producer-handler, who produces milk under a dairy farm inspection permit issued by a duly constituted health authority and whose milk may be used as Grade A milk for consumption in the marketing area if such milk is received at a fluid milk plant. Provision should be made so that the milk of producers regularly received at a fluid milk plant may be diverted for the account of a handler to a nonfluid milk plant any day during the flush production months and on not more than 15 days during any other months and still retain status under the order. Diverted milk shall be deemed to have been received at the plant from which it was diverted. It was proposed that a cooperative be authorized to divert milk to unapproved plants. It was not shown, however, that such authority under the regulations of an individual handler-pool would serve any purpose.

"Other source milk" should be defined as all skim milk and butterfat contained in products utilized by the handler in his operations, except milk from producers and other Class I products received from other fluid milk plants. Thus, other source milk would represent butterfat and skim milk which may not be subject to the pricing provisions of this order.

Persons who are engaged in producing milk and distributing only milk of their own production, should be subject to the order only to the extent that they must submit reports to the market administrator, as required, and maintain and make available to the market administrator accounts, records, and facilities so that the market administrator may verify that such persons are producer-handlers. It would be meaningless to require under the order that a producer-handler pay any particular price for milk produced on his own farm.

Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler will be Class I milk. Any supplemental supplies of milk which may be obtained from other handlers may, by virtue of the type of operation involved, be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. Pursuant to the proposed order, any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the fluid milk plant(s) of a handler after the allocation of shrinkage on producer milk.

(b) *Classification of milk.* Milk received by regulated handlers should be classified on the basis of the form in, or the purpose for which it is used, as either Class I milk or Class II milk.

The products which should be included in Class I milk are those generally required by health authorities in the marketing area to be obtained from milk or milk products from approved "Grade A" sources. 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 somewhat above the ungraded or manufacturing milk price. This higher price should be at such a level that it will yield a blend price to producers that will encourage production of enough milk to meet market needs.

Excess milk not needed seasonally or at other times for Class I use must be disposed of for manufactured products. These products are less perishable and must be sold in competition with products made from unapproved milk. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated or reconstituted nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream), and any mixture in fluid form of skim milk and cream (except ice cream mix, eggnog, and sterilized products contained in hermetically sealed containers); and (2) not accounted for as Class II milk.

Class I products which contain concentrated skim milk solids such as skim milk drinks to which extra solids have been added or concentrated whole milk disposed of for fluid use, should be included under the Class I milk definition. Products such as evaporated or condensed milk packaged in bulk or in hermetically sealed cans should not be considered as concentrated milk.

It was contended that in some portions of the marketing area buttermilk may be made from ungraded milk and that it, therefore, should not be included in Class I. It must be made from Grade A milk in the primary consuming areas of the proposed market, however, and all plants selling in these areas must abide by such standards. This includes most of the principal distributing plants which would be regulated. Among those plants not so required it is not a practice to make buttermilk from ungraded milk or milk products. Buttermilk distributed in the market is generally labeled and otherwise designated as a Grade A product.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately 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 of these 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 acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator or by means of standard conversion factors of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Butterfat and skim milk used to produce Class II products should be considered to be disposed of when so used. Handlers will need to maintain stock records on such products, however, to permit audit of their utilization records by the market administrator. Class II products from any source used in the production of products included in Class I milk should be considered to be a receipt of other source milk. This will maintain priority of assignment of current receipts of producer milk to Class I utilization.

Handlers must be held responsible for a full accounting of all their receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible to the market administrator to establish the classification of, and make payment to producers for, such milk. Except for such limited quantities of shrinkage which may under certain conditions (as set forth elsewhere in this decision) be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use. It is necessary to place the burden of proof on the handler to establish the utilization of any milk as other than Class I.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened); nonfat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk.

Cream which is placed in storage and frozen should be classified as Class II milk. Such cream is intended primarily for use in ice cream and ice cream mixes. Any frozen cream or other Class II products which are used later in a fluid milk plant would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Accounting procedure will be facilitated by providing that month end inventories of all products designated as Class I milk, regardless of whether such products are held in bulk or in packages, should be classified in Class II milk. Inventories of such products on hand will then be subtracted from Class II use the following month. If any products which are classified as Class II milk because they are held in month-end inventories or later used in Class I, the higher value use should be reflected to producers unless producer milk was not available for such use.

Inventories of products designated as Class I milk on hand at a fluid milk plant at the beginning of any month during which such plant becomes a fluid milk plant for the first time should likewise be subtracted from the Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

Shrinkage should be determined by subtracting from the total pounds of skim milk and butterfat received by the handler his total established utilization of skim milk and butterfat, respectively, in various products. Shrinkage not in excess of 2 percent of the handler's receipts of producer and other source milk should be prorated between producer and other source milk on the basis of the pounds received from each source. None of the shrinkage should be assigned to milk received from other fluid milk plants because shrinkage on such milk will be allowed to the transferring handler. A plant which is operated in a reasonably efficient manner and for which complete and accurate records of receipts and utilization are maintained should have total shrinkage of less than 2 percent of total receipts. It is concluded that shrinkage which is not more than 2 percent of total receipts of producer milk and other source milk used to produce a Class II product should be classified as Class II milk and any shrinkage in excess of this quantity should be classified as Class I milk.

Transfers. Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, some Class I items may be disposed of to other plants for Class II use. Classification of any product so transferred to another plant should under certain circumstances be determined according to its utilization in the plant to which transferred.

Milk, skim milk or cream, or other products designated as Class I milk transferred by a handler to the fluid milk plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee-plant for such assignment after prior allocation of shrinkage and other source milk as described below. On the other hand, if the transferring handler had other source milk during the month, the assignment of products transferred to another plant to the Class I utilization of such plant should be limited so that other source milk in the transferring handler's plant will not be allocated to Class I milk while producer milk is allocated to Class II milk in the transferee-handler's plant.

Milk, skim milk and cream disposed of to a nonfluid milk plant, including milk which is diverted (sent directly to the nonfluid milk plant from the producer's farm) should be classified as Class I milk, unless certain conditions are met. One of these conditions is that the operator of the nonfluid milk plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the receipt and utilization of milk in such nonfluid milk plant. Provision for verification by the market administrator is reasonable and necessary to assure that producer milk will be paid for in accordance with its utilization. As mentioned heretofore, items of Class I milk transferred to a producer-handler should not be subject to reclassification.

The order class prices apply only to producer milk. It is necessary, therefore, if a plant has butterfat or skim milk other than that received in milk from producers, to determine the quantities of milk in each class to be assigned to producers. The milk of producers who are primarily engaged in supplying the Appalachian market should be assigned to Class I utilization first. This is necessary to insure the stability of the classified pricing program of the order. If the order permitted handlers to obtain other source milk whenever it was advantageous to do so for Class I use while producer milk in the plant was utilized in Class II, the order would not be effective in carrying out the purposes of the act. Also, the market would be deprived of a dependable supply of milk. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in § 923.46 of the attached order.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month.

(c) *Class prices.* Class I prices should be established at a level which, in conjunction with the Class II prices hereinafter concluded to be appropriate, will result in returns to producers high enough to maintain an adequate but not excessive supply of quality milk to meet the requirements of the marketing area.

The maintenance of stable conditions in the market requires that Class I prices be adjusted whenever the supply of milk is out of line in relation to sales of milk for fluid use. If prices remain too low, insufficient quantities of milk will be produced to assure that the Class I market will be fully supplied. Conversely, if prices are too high, production will be overstimulated and consumption curtailed. This would cause more milk to be produced than is needed to satisfy the demand for Class I milk, resulting in the development of unnecessary and uneconomic surpluses.

When milk produced locally is insufficient to meet the Class I needs of the market supplemental supplies of Grade A milk are purchased by handlers in the Appalachian area from plants located over a wide geographic area. Prices of this milk fluctuate to a considerable extent with the value of milk produced for manufacture. Other items which determine the prices at which such milk will be available to Appalachian handlers include the cost of transporting such milk to the marketing area and the alternative outlets for such milk.

Proper recognition must be given the prices at which alternative sources of supply are available, especially since any milk plant wherever located may, by meeting the prescribed qualifications, become a fluid milk plant under the order. It is necessary, therefore, that the Class I price in the proposed Appalachian milk marketing order should not be set at levels which will bring the cost of such milk above the cost of obtaining Grade A milk supplies regularly from other sources.

The Class I price for milk containing 4 percent butterfat established by the Virginia Milk Commission for southwestern Virginia averaged $6.10 for the year 1953. The stated Class I price of most of the principal handlers throughout the area paying producers on a classification basis was approximately the same. As indicated elsewhere in this decision, not all producer milk utilized by handlers in dispositions defined as Class I in the attached proposed order was paid for at the stated Class I price. One of the larger handlers paid producers one dollar above the local condensery price for milk sold for fluid consumption on contracts to governmental agencies. Milk sold for buttermilk was paid for by some handlers at the local condensery price and by others at 50 cents above such price. Skim milk used by handlers in the area in flavored milk drinks are frequently paid for at the manufacturing prices. The local condensery price was approximately $3.25 per hundredweight for 4 percent milk in December 1953, and was in some months during the year even below this figure.

The Class I price should be fixed in relation to the general level of the value of milk used to produce manufactured dairy products. To achieve this end a basic price should be adopted which will reflect this general level and to which differentials should be added to reach the appropriate Class I price. Such basic price should be the higher of (a) the average of the prices paid by the 15 "Midwestern Condenseries," (b) a price computed on the basis of the daily quotations for 92 score butter at Chicago and prices paid for nonfat dry milk solids f. o. b. manufacturing plants in the Chicago area, or (c) the average of the prices paid for milk received from dairy farmers by selected manufacturing plants in the local area.

The purpose of such basic price is to give consideration to the national economic factors underlying the price for milk for manufacturing uses, which prices influence the local market prices. Prices for milk used for fluid purposes in competitive markets are related to the prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is countrywide, prices of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply and demand for milk. For these reasons, fluid milk markets have used butter, nonfat dry milk solids, and cheese prices, or the prices paid by condenseries with differentials over these basic or manufacturing prices to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk, transportation costs to the fluid market, and to furnish the necessary incentive to get such milk produced.

The basic formula proposed herein is essentially the same as that used under the Knoxville, Nashville, and Memphis orders and similar to those used in many other federally regulated markets. The price computed under the formula would have averaged $3.85 for 1953. The differential to be added to this basic price in determining the Class I price would be applicable to all skim milk and butterfat included in the Class I definition of the proposed order. Consequently, the total quantities of producer milk classified in Class I under the order would be significantly greater than the quantities of producer milk now allocated to Class I under the various classification schemes now in effect in the market. It is concluded that the differentials to be added to the basic price should be $1.70 for the months of March through July and $2.10 for all other months.

The average Class I price which would have been fixed under this formula during 1953 was $5.75. The average stated Class I price for major handlers in the market for the same period was over $6.00. The recommended formula would have fixed a price of $5.03 for the month of July 1954.

Class I prices should be announced by the market administrator by the sixth day of the month. In order to do this, it is necessary to use price quotations for the preceding month in calculating the basic formula price.

Handlers contended that the Class I prices under the Appalachian order should be the same as that provided in Federal Order No. 88, regulating the handling of milk in the Knoxville, Tennessee, marketing area. There was no showing in the record that marketing conditions in the two areas are the same. No major segments of the production area for the two markets overlap, and the shifting back and forth of producers between the two markets is not general. The principal sales areas of handlers in the two markets are widely separated, and competition between handlers in the two markets prevails in but few places. The Class I pricing herein provided would not change materially the relative position of handlers in the Appalachian market with regard to such competition.

Class I prices to producers, historically, have been higher in the Appalachian area than the Class I prices provided by the Knoxville order. There is no evidence in the record that the pricing of Class I milk in the Appalachian area has in the past been based directly on the Class I prices prevailing in the Knoxville market, or that such a basis of pricing for the Appalachian market would be appropriate at this time.

Class II price. The Class II 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 procure milk supplies solely for the purpose of converting them into Class II products.

In order to have an adequate supply of producer milk in the fall and winter months, handlers accept surplus milk from producers during the months of flush production. The Class II uses of milk disposed of during the flush production season are not, on the whole, as profitable outlets as in the fall of the year when the supply of producer milk available for Class II is lower. With a limited supply of milk for Class II, the market for those products which will command the best return are served first. During those months of high production, when the supply is excessive, large quantities of milk are disposed of for use in those products which are least profitable or actually result in a loss to those handlers receiving milk from producers.

Handlers testified that they were experiencing some difficulties at the time of the hearing in disposing of excess milk to manufacturing plants in the area, and they anticipated further difficulties in this regard with the approaching seasonal increases in production. At the peak of the 1953 production season, local milk manufacturing plants were pushed to capacity production by reason of this increased receipt of ungraded milk from their regular shippers. Consequently, these manufacturing plants accepted but limited quantities of surplus milk from Appalachian handlers. It was indicated at the hearing that these local manufacturing plants would accept but limited quantities of excess producer milk from fluid milk plants in the future.

Prices paid by manufacturing plants may differ because of changes in the relative prices of the products which they manufacture. Handlers will dispose of excess milk to those plants which are paying the highest price at the time of such disposal. Because of small volume and inefficient means of handling, it is possible that some handlers may, at times, incur losses in handling their necessary reserve supply of milk. The handling of such surplus milk is incidental, however, to the handling of fluid milk.

The pricing of milk in the months of flush production should be at the rate at which milk produced for the market will be handled so that such surplus milk production will not disrupt the orderly marketing of milk. The level of such pricing should not be below that paid for ungraded milk, since such pay prices represent the lowest value in the milkshed for milk for manufacturing purposes. Handlers who need and desire the entire output of producers during periods of short supply should assume the responsibility of paying producers at least the competitive manufacturing prices for Class II milk throughout the months of flush production. During the months of short production a higher level of prices for Class II milk should be provided in the order so as to encourage the transfer of milk from manufacturing uses to fluid uses during the fall and winter months of short supply.

The Class II price for the months of March through August should be the average of the prices paid for milk received from dairy farmers by selected manufacturing plants in the area. The nine such plants whose pay prices would be so used were proposed by producers at the hearing. Two of these plants are located in southwestern Virginia, three in Tennessee, two in Kentucky, and one in each of the States of North Carolina and South Carolina. Several of the plants are the principal buyers of ungraded milk in the milkshed of the proposed marketing area.

For each of the months of September through February the Class II price should be the higher of either the price computed pursuant to a butter-nonfat solids formula which will reflect changes in manufactured product values in the general area; or the average of the prices paid by the nine local manufacturing plants.

Provision is made in the attached order which will permit a handler to divert directly to manufacturing plants any milk clearly not needed in his own operations.

Butterfat differentials. As pointed out previously herein, it is concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II prices of milk in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in value due to variations in the butterfat content of each product. The values resulting from multiplying the average price of 92-score butter at Chicago by 0.120 for Class I milk and the New York 92-score butter price by 0.110 for Class II milk will provide an appropriate basis for adjusting such prices in this market, since they will reflect changes in the central market prices of butterfat. The basing point from which such adjustments are made should be 4.0 percent butterfat. This is the basis now used in the Appalachian marketing area.

The use of butterfat differentials in this manner follows standard practices in most fluid milk markets for adjusting for butterfat variations. In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I differential at the same time that the Class I price is announced.

Class II prices and butterfat differentials will not be announced until after the end of the month. Although handlers will now know the cost of such milk as it is utilized, they will know that their cost will follow that of their principal competitors for manufactured outlets.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class prices provided in the order. The producer butterfat differential in no way affects the handlers' cost of milk but merely prorates returns among producers whose milk differs in butterfat test.

The record indicates that the average test of producer receipts exceeds that of Class I sales. The butterfat differentials recommended herein for Class I and Class II milk should tend to encourage the production of milk with a fat test more in line with the fat requirements of the market.

Location differentials. It was proposed at the hearing that handlers be allowed a location differential with respect to milk moved from a receiving plant to a processing plant.

The record discloses that some of the milk normally supplied to the marketing area is received by handlers at a distance from the plant which processes and distributes the milk. In addition, some of the milk is brought to the marketing area in packaged form.

The minimum Class I price to be paid for producer milk should not be dependent upon the type of plant receiving the milk. Neither should milk delivered to one point within the proposed marketing area be priced differently than that delivered to any other point in the area. However, to the extent that milk is received elsewhere from producers and brought to the marketing area by a handler, the handler has assumed a transportation cost which might otherwise be borne by producers. For this reason, the Class I price should be adjusted downward in the case of plants which assume the cost of hauling the milk to the marketing area.

It is customary for handlers to pay producers delivering milk to country receiving stations a lesser price per hundredweight than is paid producers delivering directly to bottling plants. To the extent that this represents a lower price because of the location of the milk, such difference in value should be recognized under the order. It is concluded, therefore, that the Class I price should be reduced for those plants which are outside the marketing area by 10 cents per hundredweight of milk for the first 50 miles and by 1.5 cents per hundredweight of milk for each additional 10 miles or fraction thereof that such plants are from a central place in the primary center of consumption in the proposed area. Kingsport, Tennessee, is such place in the Appalachian marketing area. The location differential adjustment and the rate thereof herein provided are representative of those prescribed in other Federal milk marketing orders and is related to the cost of hauling milk by an efficient means to the market.

Prices paid producers supplying plants to which location differentials apply should be reduced to reflect the lower value of such milk f. o. b. the point to which delivered.

No adjustment should be made in the Class II price for location to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk. This is true because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices shown in the record paid for ungraded milk received at various sections of the milkshed do not indicate any difference in value associated with location.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk in the most advantageous possible method. Prices paid producers for such milk should not be made dependent upon the method employed by the handler in disposing of such milk, otherwise part of the incentive for keeping handling cost at a minimum is removed. To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant after a maximum assignment of 5 percent of the direct producer receipts to Class II milk.

(d) *Distribution of the proceeds to producers.* The individual handler type of pool should be included in the order as a means of distributing to producers the returns from the sale of their milk. Under this type of pool, the minimum prices will be uniform to all producers delivering their milk to the same handler. The "blend", "base" and "excess" prices, as the case may be, will depend on the proportion of the producers' milk used in Class I and Class II milk by the handler receiving his milk. Although each handler subject to the order will be required to pay uniform minimum prices to all the producers who deliver to him during each month the minimum blend prices payable to producers by the various handlers will differ according to the variation among handlers in the proportion of milk used in each class.

The record indicates that no handler in the area is carrying an undue proportion of excess milk in order to supply other handlers with supplemental milk. Under these conditions an individual-handler pool in the Appalachian marketing area will tend to result in optimum allocation of producer milk among handlers according to Class I needs of the handler and in maximum returns to producers from their milk.

Base and excess plan. A "base and excess" plan of distributing the returns for milk among producers should be employed in connection with the individual-handler pool.

Base and excess plans, although they vary considerably among handlers, are commonly used throughout the milkshed area. The base and excess method of distributing milk returns during the months of flush production has wide support among both producers and handlers and should be continued. Interruption in the use of a base plan at this time might result in increased seasonality of production to the detriment of the market.

Because of the seasonal variations in the production of milk, there is a need for an incentive to maintain production in the fall and winter months relative to spring and summer levels. Some handlers have difficulty in utilizing efficiently all milk delivered to them in the months of seasonally high production. By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter as compared with deliveries during the season of flush production, a production pattern more closely fitted to the sales pattern of fluid milk and fluid milk products will be encouraged.

The base-excess plan proposed by producers would establish for each producer in the market a base which would depend upon his deliveries of milk to fluid milk plants during the six-month period, September through February. During these months, as well as in March, all producers would receive the same "blend", or average, price paid by the handler to which they deliver their milk.

For each of the months of April through August, separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allotted to "base milk." Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days in the month of which he delivers milk to any fluid milk plant. The "excess milk" price would be the minimum order Class II price, unless the total Class I sales of the handler exceed the total quantity of base milk received from producers during the month. In this case, the fact that excess milk was used for Class I sales would be reflected in the payment to be made for such milk, or in the excess blend price.

The daily base of each producer would be calculated by the market administrator by dividing the total pounds of milk received by all handlers, from such producer during the months of September through February, by the number of days from the first day milk is received from such producer during those months to the last day of February inclusive, but not less than 120 days. On or before April 1st of each year the market administrator would be required to notify each producer and the handler receiving milk from him, the daily base established by such producer. This will allow new producers a limited period during which their milk is needed by the market to establish a base at the full rate of their average production.

It is necessary to provide certain rules in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. To accomplish this, and to preserve the effectiveness of the base plan, transfers of bases should be limited to the entire bases of producers who retire from farming. In cases of death or dissolution of joint production arrangements, such as landlord-tenant relationships, similar transfers should be permitted. Since the base plan is effective in determining producer payments in only five of the twelve months in each year and since all producers must establish a new base each year, other provisions than those contained herein for the establishment and transfer of bases are unnecessary.

The uniform prices, including uniform base and excess prices, which are required to be paid producers by each handler should be computed for milk containing 4.0 percent butterfat which is in accordance with past and current market practices. In distributing proceeds to producers, a differential should be applied to recognize different values of milk in accordance with its butterfat content. This differential should be determined on the basis of the weighted average value of producer butterfat according to its utilization at the class prices of the order.

Location differentials heretofore discussed should be applied to prices paid producers.

Payment to producers. The order should provide that each handler with respect to milk received from a producer, for which payment is not made to a cooperative association, shall pay such producer at not less than the applicable uniform price(s) on or before the 15th day after the end of each month. With respect to the producers whose milk was caused to be delivered by a cooperative association which is authorized to collect payment for such milk, the handler shall, if requested in writing by the cooperative association, pay such cooperative association on or before the 13th day after the end of such month an amount equal to the sum of the individual payments otherwise payable to such producer.

Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions for goods or services furnished to or for payments made on behalf of the producer. At the time final settlement is made for milk received from producers during the month the handler should be required to furnish to each producer a supporting statement. Such statement would list the pounds and butterfat tests of milk received from him, together with the rates of payment for such milk and a description of any deductions claimed by the handler.

(e) *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 implies the same meaning. Definitions for base and excess milk are included. Such other 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. Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make the reports necessary to establish classification of producer milk and payments due therefor. Time limits must be prescribed for filing such reports and for making the payments to producers.

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 verify all payments required under the order.

In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of their intentions to import other source milk. Such information on a market wide basis may assist handlers in locating local sources of producer milk and expedite the transfer of such milk among handlers. It is necessary that handlers retain records to prove the utilization of the milk and that proper payments were made to producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore 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 such books and records and on the period of time in which obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders 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.

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on (a) producer milk (including such handler's own production), (b) other source milk at a fluid milk plant which is classified as Class I milk, and (c) Class I milk disposed of on routes in the marketing area from a nonfluid milk plant.

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. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by some handlers to supplement local producer supplies of milk. Several handlers obtain a portion of their milk supply from their own herds. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers' own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute limited quantities of Class I milk in the marketing area. These plants must be checked to verify their status under the order. Assessment of administrative expense with respect to such milk sold in the marketing area will help to defray the costs of such checks.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 5 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers, such as verifying of tests and weights and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is a need for a marketing services program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with current market information. Detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish such services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. Comparison of the extent of the milkshed and the volume of milk involved with that of several other markets now under Federal regulation leads to the conclusion that this will reflect the maximum cost of such services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

General findings. (a) The proposed marketing agreement and the 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 § 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 of 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 interests; and

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

Rulings on proposed findings and conclusions. Written arguments and proposed findings and conclusions submitted on behalf of interested persons were considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that the proposed findings and conclusions differ from the findings and conclusions contained herein, the specific or implied requests to make such findings are denied because of the reasons stated in support of the findings and conclusions in this decision.

Recommended marketing agreement and order. The following order 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 identical with those contained in the order.

DEFINITIONS

§ 923.1 *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.).

§ 923.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 923.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

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

§ 923.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association 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 to be engaged in making collective sales of or marketing milk or its products for its members.

§ 923.6 *Appalachian Marketing Area.* "Appalachian Marketing Area," hereinafter called the "marketing area," means all the territory within the counties of Sullivan, Washington, and Greene in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky.

§ 923.7 *Fluid milk plant.* "Fluid milk plant" means (a) any plant from which a volume of Class I milk equal to an average of more than 1,000 pounds per day, or not less than 2.0 percent of the approved milk of such plant is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other fluid milk plants) located in the marketing area, (b) any plant which during the months of February through July ships grade A milk or skim milk to a plant qualified pursuant to paragraph (a) of this section or (c) any plant which during the months of August through January receives milk from farmers holding dairy farm permits or ratings issued by a health authority having jurisdiction in the marketing area, and from which milk, skim milk or cream is moved during the month to a plant qualified pursuant to paragraph (a) of this section: *Provided,* That if a portion of a plant is operated separately and no approved milk is received in such portion of the plant, it shall not be considered as part of a fluid milk plant.

§ 923.8 *Approved plant.* "Approved plant" means a fluid milk plant or any plant from which Class I milk is delivered (including delivery by a vendor or sale from a plant store) during the month to retail or wholesale outlets (except fluid milk plants) located in the marketing area.

§ 923.9 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, processing or bottling plant other than a fluid milk plant.

§ 923.10 *Handler.* "Handler" means any person in his capacity as the operator of an approved plant.

§ 923.11 *Producer.* "Producer" means any person except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a fluid milk plant, or (b) diverted by the operator of a fluid milk plant for his account to a nonfluid milk plant (1) any day during the months of March through July, and (2) on not more than 15 days during any of the months of August through February: *Provided,* That milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which it was diverted.

§ 923.12 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the fluid milk plant directly from producers, or (b) diverted from a fluid milk plant to a nonfluid milk plant in accordance with the conditions set forth in § 923.11.

§ 923.13 *Approved milk.* "Approved milk" means any skim milk or butterfat contained in producer milk or in milk, skim milk or cream which is received from a fluid milk plant, except the plant of a producer-handler, and which is approved for distribution as Class I milk by the agency issuing the health permit to such plant.

§ 923.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of products designated as Class I milk pursuant to § 923.41 (a), except (1) such products approved by the appropriate health authority for distribution as Class I milk in the marketing area which are received from fluid milk plants, or (2) producer milk; and

(b) Products designated as Class II milk pursuant to § 923.41 (b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 923.15 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and an approved plant from which Class I milk is disposed of in the marketing area but who receives no milk from other dairy farmers.

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

§ 923.17 *Base milk.* "Base milk" means milk received at a fluid milk plant from a producer during any of the months of April through August which is not in excess of such producer's base for such month computed pursuant to § 923.81.

§ 923.18 *Excess milk.* "Excess milk" means either (a) milk received at a fluid milk plant from a producer during any of the months of April through August, which is in excess of base milk received from such producer during such month, or (b) milk received during such month from a producer for whom no base can be computed pursuant to § 923.80.

MARKET ADMINISTRATOR

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

§ 923.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 45 days following the date on which he enters upon his duties, 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 provided by § 923.95 (1) the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 923.94, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, 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 conspicuous 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 reports pursuant to §§ 923.30 and 923.31, or payments pursuant to §§ 923.90 through 923.95;

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

(h) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this part;

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

(j) On or before the date specified, publicly announce and notify each handler in writing of the following: (1) The 6th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; (2) the 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (3) the 10th day after the end of each month, the uniform price(s), and the producer butterfat differential.

REPORTS, RECORDS, AND FACILITIES

§ 923.30 *Reports of receipts and utilization.* On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his approved plants for such month as follows:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in products designated as Class I milk pursuant to § 923.41 (a) (1) received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of products designated as Class I milk pursuant to § 923.41 (a) (1) on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

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

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his fluid milk plants his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of April through August, the total pounds of base and excess milk, (iii) the days on which milk was received from such producer if less than a full month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of milk, fluid skim milk or cream at his fluid milk plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

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

§ 923.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

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

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

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and other milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

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

CLASSIFICATION

§ 923.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat at fluid milk plants, which is required to be reported pursuant to § 923.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 932.41 through 923.46.

§ 923.41 *Classes of utilization.* Subject to the conditions set forth in §§ 923.43 and 923.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream) and any mixture in fluid form of skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix, and eggnog); and (2) not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section; (2) contained in inventory of products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of the month; and (3) in shrinkage assigned to Class II pursuant to § 923.42.

§ 923.42 *Shrinkage.* The market administrator shall determine the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk in the fluid milk plant(s) of the handler;

(b) Multiply the pounds of skim milk and butterfat in producer milk (except milk diverted pursuant to § 923.11) and other source milk by 0.02;

(c) Multiply the pounds of butterfat and skim milk, respectively, determine pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk classified pursuant to § 923.41 (a) and (b) (1) (except shrinkage determined pursuant to paragraph (a) of the section) which is in Class II milk. The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

(d) Assign the shrinkage of skim milk and butterfat classified as Class II milk pro rata to producer milk and other source milk.

§ 923.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

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

§ 923.44 *Transfers.* Skim milk or butterfat disposed of from a fluid milk plant shall be classified:

(a) As Class I milk if transferred in the form of products designated as Class I milk in § 923.41 (a) (1) to a fluid milk plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to § 923.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 918.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.

(b) As Class I milk if transfered to a producer-handler in the form of products designated as Class I milk in § 923.41 (a) (1);

(c) As Class I milk if transferred or diverted in bulk form as milk or skim milk to a nonfluid plant located in the marketing area or not more than 50 miles by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area unless:

(1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both buyer and seller on or before the 6th day after the end of the month within which such transaction occurred;

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(d) As Class I milk is transferred in bulk form as cream to a nonfluid plant unless:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 923.30 on or before the 6th day after the end of the month within which such transaction occurred;

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

§ 923.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors, the reports of receipts and utilization for the fluid milk plants of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 923.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 923.45, the market administrator shall determine the classification of producer milk for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 923.42 (d);

(2) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk: *Provided*, That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of products designated as Class

I milk pursuant to § 923.41 (a) (1) on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in each class the skim milk received from the fluid milk plants of other handlers in the form of products designated as Class I milk in § 923.41 (a) (1), according to its classification as determined pursuant to § 923.44 (a);

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

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

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

(c) Determine the weighted average butterfat content of the Class I and Class II milk allocated to producer milk.

MINIMUM PRICES

§ 923.50 *Basic formula price*. The highest of the prices computed pursuant to paragraphs (a) or (b) of this section and § 923.51 (b), rounded to the nearest whole cent, shall be known as the basic formula price.

(a) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the Chicago butter price for the month by 0.6.

(b) The price per hundredweight computed as follows: Multiply the Chicago butter price by 4.0, add 20 percent thereof, and add to such sum 3¾ cents for each full ½ cent that the average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period, is above 5 cents.

§ 923.51 *Class prices*. Subject to the provisions of §§ 923.52 and 923.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price*. The Class I milk price shall be the basic formula price for the preceding month, plus $2.10 during the months of August through February and plus $1.70 during all other months.

(b) *Class II milk price*. For the months of March through August, the Class II milk price shall be the price computed pursuant to subparagraph (1) of this paragraph and for all other months the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

Pet Milk Co., Mayfield, Ky.
Pet Milk Co., Bowling Green, Ky.
Pet Milk Co., Greenville, Tenn.
Pet Milk Co., Abingdon, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N. C.
Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S. C.
Carnation Co., Galax, Va.

(2) Add the amounts obtained pursuant to subdivisions (i) and (ii) of this subparagraph, and subtract 75 cents therefrom.

(i) Multiply by 4.80 the simple average of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at New York as reported during the month by the Department of Agriculture;

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

§ 923.52 *Butterfat differential to handlers*. For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 923.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price*. Multiply by 0.12 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the previous month, and round to the nearest one-tenth cent.

(b) *Class II price*. Multiply by 0.11 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at New York, as reported by the Department of Agriculture during the month, and round to the nearest one-tenth cent.

§ 923.53 *Location differentials to handlers*. For that milk which is received from producers at a fluid milk plant located outside the marketing area and 50 miles or more from the city limits of Kingsport, Tennessee, by shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 923.41 (a) (1) and assigned to Class I pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 923.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the fluid milk plant where such milk is received from producers:

Distance from the city limits of Kingsport (miles):	Rate per hundredweight (cents)
50 but less than 60	10
For each additional 10 miles or fraction thereof an additional	1.5

Provided, That for purpose of calculating such location differential, products so designated as Class I milk which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 923.46 (a) (1) and (2) and the comparable steps in (b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat contained in the producer milk received at the transferee-plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

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

APPLICATION OF PROVISIONS

§ 923.60 *Producer-handlers*. Sections 923.40 through 923.46, 923.50 through 923.53, 923.70 through 923.72, 923.80 through 923.83, and 923.90 through 923.96 shall not apply to a producer-handler.

§ 923.61 *Plants subject to other Federal orders*. A plant specified in paragraph (a) or (b) of this section shall be considered as a nonfluid milk plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 923.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 923.7 (a) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the Secretary determines that a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except fluid milk plants) in the Appalachian marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 923.7 (b) or (c) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant has qualified as a fluid milk plant pursuant to § 923.7 (c) for the preceding August through January period.

DETERMINATION OF UNIFORM PRICE

§ 923.70 *Net obligation of handlers.* The net obligation of each handler for producer milk received at his fluid milk plant(s) during each month shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price; (d) add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months; and (e) add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 923.46 (a) (3) and (b), whichever is less.

§ 923.71 *Computation of uniform prices for handlers.* For each of the months of September through March, the market administrator shall compute a uniform price for the producer milk received by each handled as follows:

(a) Add to the amount computed pursuant to § 923.70 the total of the location differential deductions to be made pursuant to § 923.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. market.

§ 923.72 *Computation of the uniform prices for base milk and for excess milk for handlers.* For each of the months of April through August, the market administrator shall compute uniform prices for base milk and for excess milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 923.70 the total of the location differential deductions made pursuant to § 923.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Subject to the conditions set forth in paragraph (e) of this section, compute the value of excess milk received by such handler from producers by multiplying the quantity of such milk by the Class II price;

(e) Compute the value of base milk received by such handler from producers by subtracting the value obtained pursuant to paragraph (d) of this section from the value obtained pursuant to paragraph (c) of this section: *Provided,* That if such resulting value is greater than an amount computed by multiplying the pounds of such base milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (d) of this section;

(f) Divide the value obtained pursuant to paragraph (e) of this section by the hundredweight of base milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for base milk of 4.0 percent butterfat content, f. o. b. market; and

(g) Divide the value obtained pursuant to paragraph (d) of this section by the hundredweight of excess milk in producer milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for excess milk of 4.0 percent butterfat content.

BASE RATING

§ 923.80 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months of September through February by the number of days from the first day milk is received from such producer during said months to the last day of February, inclusive, but not less than 120 days.

§ 923.81 *Computation of base.* The base of each producer to be applied during the months of April through August shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days such producer's milk was received by such handler during the month.

§ 923.82 *Base rules.* The following rules shall apply in conection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a fluid milk plant during the months of September through February.

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be removed from one handler to another handler.

§ 923.83 *Announcement of established bases.* On or before April 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 923.90 *Payments to producers.* Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 15th day after the end of each month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price computed pursuant to § 923.71 for the months of September through March, and at not less than the uniform price for base milk computed pursuant to § 923.72 with respect to base milk received from such producer and at not less than the uniform price for excess milk computed pursuant to § 923.72 with respect to excess milk received from such producer for the months of April through August, subject to the following adjustments: (1) The butterfat differential pursuant to § 923.91, (2) the location differential pursuant to § 923.92, (3) marketing service deductions pursuant to § 923.95, (4) proper deductions authorized in writing by the producer, and (5) adjustments for errors in calculating payment to such individual producer for past months: *Provided,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if requested by the cooperative association, pay such cooperative association on or before the 13th day after the end of each month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph;

(b) In making the payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 923.91 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer pursuant to § 923.90 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in the producer milk of such handler allocated to Class I and Class II milk pursuant to § 923.46 (b) by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 923.92 *Location differential to producers.* In making payment to producers pursuant to § 923.90, the applicable uniform prices to be paid for producer milk received at a fluid milk plant located outside the marketing area and 50 miles or more from the city limits of Kingsport, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the fluid milk plant where such milk was received at the following rate:

Distance from the city limits of Kingsport (miles):	*Rate per hundredweight (cents)*
50 but less than 60	10
For each additional 10 miles or fraction thereof an additional	1.5

§ 923.93 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, accounts, or verification of weights and butterfat tests of milk or milk products disclose errors, resulting in money due a producer or the market administrator from such handler, or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

§ 923.94 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 923.90, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing 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 from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of this statement, a handler may authorize the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 923.90 (b).

§ 923.95 *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 for such month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as the Secretary may prescribe with respect to all (a) receipts of producer milk including such handler's own production, (b) other source milk at a fluid milk plant which is classified as Class I milk and, (c) Class I disposed of during the month on routes (including routes operated by vendors) to retail or wholesale outlets (except fluid milk plants) located in the marketing area from a nonfluid milk plant.

§ 923.96 *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 two years after the last day of the calendar month during which the market administrator received the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-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 two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

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

§ 923.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 923.101.

§ 923.101 *Suspension or termination.* The Secretary may suspend or terminate this part or any provisions of this part whenever he finds this part or any provisions of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 923.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 923.103 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 923.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions of this part.

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

Issued at Washington, D. C., this 12th day of August 1954.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 54-6341; Filed, Aug. 16, 1954; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

NOTICE OF PROPOSED WITHDRAWALS AND RESERVATION OF LANDS

AUGUST 2, 1954.

An application, serial number Misc. 1906324, for the withdrawal from all forms of appropriation under the public land laws of the lands described below was filed on June 22, 1954, by the United States Navy.

The purpose of the proposed withdrawal: Continued use of the land in connection with the Yermo Marine Corps Storage and Repair Depot.

For a period of 30 days from the date of publication of this notice, persons having cause to object to the proposed withdrawal may present their objections in writing to the State Supervisor, California, Bureau of Land Management, Department of the Interior, at 801 California Fruit Building, 4th and J Streets, Sacramento, California. In case any objection is filed and the nature of the opposition is such as to warant it, a public hearing will be held at a convenient time and place which will be announced, where opponents to the order may state their views and where proponents of the order can explain its purpose.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER, either in the form of a public land order or in the form of a Notice of Determination if the application is rejected. In either case, a separate notice will be sent to each interested party of record.

The lands involved in the application are:

T. 9 N., R. 1 E., S. B. M.

Section 10, That part of the $S\frac{1}{2}$ lying north and west of the Union Pacific Railroad right-of-way.

Section 15, That part of the $NW\frac{1}{4}$ lying north and west of the Union Pacific Railroad right-of-way.

The area described aggregates approximately 315.00 acres, located adjacent to the Mojave River, between Daggett and Yermo, in San Bernardino County, California.

The lands described were withdrawn by Executive Order No. 9143, of April 21, 1942, as amended by Executive Order No. 9526, of January 28, 1945, for use of the War Department, the withdrawal to be terminated six months after the end of the National emergency. On January 28, 1948, the War Department transferred jurisdiction over the land to the Navy, and the Navy desires continuous use of the land. The proposed order will make permanent the executive withdrawal order and will provide for continued use of the land by the Navy.

L. T. HOFFMAN,
State Supervisor.

[F. R. Doc. 54-6352; Filed, Aug. 16, 1954; 8:49 a. m.]

DEPARTMENT OF STATE

[Public Notice 134]

PHILIPPINE TRADE NEGOTIATIONS

ADVANCE NOTICE ON PUBLIC HEARINGS

The United States Delegation for Philippine Trade Negotiations created by direction of the Secretary of State, will hold consultations with a delegation from the Republic of the Philippines in Washington, D. C., during the late summer of this year regarding possible modification of the 1946 Agreement on Trade and Related Matters. Notice is hereby given that the United States Delegation will conduct public hearings and receive briefs from any interested person, partnership, or corporation during a recess in the consultations between the two delegations at dates and places to be announced later. The public hearings will cover all aspects of the 1946 Agreement and any related matters, including particularly tariff arrangements, parity treatment, and currency provisions.

The 1946 Agreement is based on the "Philippine Trade Act of 1946" (Public Law 371, 79th Congress). A continuation through December 31, 1955, of the reciprocal free trade provisions of this Agreement was recently approved by the Congress of the United States and the Congress of the Philippines to permit time for the consultations and negotiations to which this notice refers. The continuation authorized by the United States Congress was contained in Public Law 474, 83d Congress.

JAMES M. LANGLEY,
Chairman, United States Delegation for Philippine Trade Negotiations, Department of State.

AUGUST 4, 1954.

[F. R. Doc. 54-6337; Filed, Aug. 16, 1954; 8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 2870]

REOPENED WESTERN-INLAND MAIL RATE CASE

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on August 31, 1954, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Edward T. Stodola.

Dated at Washington, D. C., August 13, 1954.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 54-6364; Filed, Aug. 16, 1954; 8:51 a. m.]

[Docket No. 6207]

SERVICE TO NEWPORT, VT.

NOTICE OF ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on September 9, 1954, at 10:00 a. m., d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., August 12, 1954.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 54-6363; Filed, Aug. 16, 1954; 8:51 a. m.]

[Docket No. 6457 et al.]

CONTINENTAL AIR LINES, INC., ET AL.; CONTINENTAL-PIONEER ACQUISITION CASE

NOTICE OF ORAL ARGUMENT

In the matter of the application of Continental Air Lines, Inc., and Pioneer Air Lines, Inc., for approval of an agreement for the purchase by Continental Air Lines, Inc., of certain assets of Poineer Air Lines, Inc.; and in the matter of an investigation to determine whether the integration of the routes of Continental Air Lines, Inc., and Braniff Airways, Inc., into a single unified system would be consistent with the public interest.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on September 2, 1954, at 10:00 a. m., d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., August 13, 1954.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 54-6362; Filed, Aug. 16, 1954; 8:51 a. m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order 167-9; CGFR 54-33]

COMMANDANT, U. S. COAST GUARD

DELEGATION OF AUTHORITY TO REVOKE OR DENY MERCHANT MARINERS DOCUMENTS TO PERSONS INVOLVED IN CERTAIN NARCOTICS VIOLATIONS

AUGUST 3, 1954.

By virtue of the authority vested in me as Secretary of the Treasury by Reorganization Plan No. 26 of 1950 (15 F. R. 4935), there are hereby delegated to the Commandant, U. S. Coast Guard, with authority to redelegate, the functions vested in the Secretary of the Treasury by Public Law 500, 83d Congress, 2d Session, to revoke or deny merchant mariners documents to persons involved in certain narcotics violations.

[SEAL] H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 54-6354; Filed, Aug. 16, 1954; 8:49 a. m.]

UNITED STATES TARIFF COMMISSION

[List No. 212]

CORK INSTITUTE OF AMERICA

APPLICATION RECEIVED

AUGUST 11, 1954.

Application as listed below has been filed with the United States Tariff Commission for investigation under the provisions of Section 336 of the Tariff Act of 1930.

Name of article	Action sought	Date received	Name and address of applicant
Cork insulation, wholly or in chief value of cork, cork waste, or granulated or ground cork, in blocks, slabs, boards, or planks (Par. 1511, Tariff Act of 1930).	Increase in duty.	Aug. 2, 1954	Cork Institute of America, 342 Madison Ave., New York 17, N. Y.

The application listed above is available for public inspection at the office of the Secretary, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C., and also in the New York Office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

[SEAL] DONN N. BENT,
Secretary.

[F. R. Doc. 54-6350; Filed, Aug. 16, 1954; 8:49 a. m.]

HARDBOARD

NOTICE OF INVESTIGATION AND HEARING

Pursuant to a resolution adopted by the Committee on Finance of the United States Senate on August 9, 1954, the United States Tariff Commission, on the 11th day of August 1954, instituted an investigation under the provisions of section 332 of the Tariff Act of 1930, as amended, of the domestic hardboard industry and of the import classification of hardboard.

The resolution directs the Commission to report to the Senate Finance Committee, on or before February 28, 1955, and to include in its report the facts determined relative to production, trade, imports, and consumption in the United States, taking into account relevant factors affecting the domestic economy and national security, including the interests of consumers and producers, a comparison of wage rates in the United States and abroad, costs of transportation to the principal consuming centers, and other factors bearing on cost of production and distribution. The report is also to include a statement of findings with regard to the proper tariff classification of hardboard, and a statement of findings as to the effect upon the competitive position of the domestic hardboard industry of the present tariff status of imported hardboard.

With respect to the requirement for "findings with regard to the proper tariff classification of hardboard," the Commission interprets this requirement as having reference to findings which will assist the Congress in determining whether the existing tariff classification of hardboard should be changed.

Hearings. The resolution requires that interested parties be given opportunity for hearing in the course of the investigation. Accordingly, public hearings in connection with the subject matter of the investigation will be held beginning December 7, 1954, at 10:00 a. m., e. s. t., in the Hearing Room of the Tariff Commission, Eighth and E Streets NW., Washington, D. C.

Request to appear at the hearings. All interested parties desiring to appear and be heard at the hearings should notify the Secretary of the Commission, in writing, at its office in Washington, D. C., in advance of the hearings.

I hereby certify that the above investigation was instituted and hearings were ordered by the United States Tariff Commission on the 11th day of August 1954.

Issued: August 12, 1954.

[SEAL] DONN N. BENT,
Secretary.

[F. R. Doc. 54-6351; Filed, Aug. 16, 1954; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 10379, 11014, 11015; FCC 54M-990]

KEY BROADCASTING SYSTEM, INC., ET AL.

ORDER SCHEDULING CONFERENCE

In re applications of Key Broadcasting System, Incorporated, Bay Shore, New York, Docket No. 10379, File No. BP-8422; the WAVZ Broadcasting Corporation (WAVZ), New Haven, Connecticut, Docket No. 11014, File No. BP-8944; Edward J. Fitzgerald, Riverhead, New York, Docket No. 11015, File No. BP-9100; for construction permits.

It is ordered, This 10th day of August 1954, that a conference will be held at 10:00 a. m., August 20, 1954, at Washington, D. C., for the purpose of considering the matters specified in § 1.813 of the Commission's rules as amended by the Commission in its order of July 14, 1954, and the parties or their attorneys herein are directed to appear at the time and place specified.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-6356; Filed, Aug. 16, 1954; 8:50 a. m.]

[Docket No. 10994; FCC 54M-989]

PORT HURON BROADCASTING CO. (WLEW)

ORDER SCHEDULING CONFERENCE

In re application of Harmon LeRoy Stevens, Herman LeRoy Stevens & John F. Wismer, d/b as Port Huron Broadcasting Company (WLEW), Bad Axe, Michigan, Docket No. 10994, File No. BP-8958; for construction permit.

It is ordered, This 10th day of August 1954, that a conference will be held at 10:00 a. m., August 18, 1954, at Washington, D. C., for the purpose of considering the matters specified in § 1.813 of the Commission's rules as amended by the Commission in its order of July 14, 1954, and the parties or their attorneys herein are directed to appear at the time and place specified.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-6357; Filed, Aug. 16, 1954; 8:50 a. m.]

[Docket Nos. 11054-11056; FCC 54M-988]

ABRAHAM KLEIN ET AL.

ORDER CONTINUING HEARING

In re applications of Abraham Klein, Detroit, Michigan, Docket No. 11054, File No. 1417-C2-P-53; Aircall, Inc., Detroit, Michigan, Docket No. 11055, File No. 744-C2-P-54; John W. Bennett, d/b as Telephone Answering Service, Flint, Michigan, Docket No. 11056, File No. 276-C2-P-54; for construction permits for one-way signaling stations in the Domestic Public Land Mobile Radio Service.

The Commission having under consideration a request for continuance of the hearing herein from August 16, 1954, to September 8, 1954, filed by Aircall, Inc., on August 9, 1954;

It appearing, that petitioner has pending before the Commission a petition to sever the application of Telephone Answering Service from the hearing and it would be in the interest of orderly procedure for the hearing to be postponed until the Commission has acted upon said petition;

It further appearing, that Abraham Klein and the Commission's Common Carrier Bureau have consented to the grant of the continuance requested and that public interest requires immediate consideration of the request in view of the short period remaining before the scheduled hearing date;

It further appearing, that the date on which Commission action may be expected on the petition for severance is uncertain; that, due to the Examiner's hearing schedule, September 8, 1954, may not be a convenient hearing date; and that it would be more conducive to orderly procedure to set a convenient hearing date after the Commission has acted upon the petition for severance;

It is ordered, This 10th day of August 1954, that the hearing, heretofore scheduled for August 16, 1954, is continued without date, pending further order;

It is further ordered, That the motion of Aircall, Inc., is granted to the extent indicated above.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-6358; Filed, Aug. 16, 1954; 8:50 a. m.]

[Docket No. 11128; FCC 54-1010]

WALLACE SIMPSON

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Wallace Simpson, Post, Texas, Docket No. 11128, File No. BP-9204; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 4th day of August 1954;

The Commission having under consideration the above-entitled application for construction permit for a new standard broadcast station on 1220 kilocycles with a power of 250 watts, daytime only at Post, Texas (File No. BP-9204).

It appearing, that the applicant is legally, technically, financially and otherwise qualified to operate the proposed station, but that the proposed operation may cause daytime interference to Station KLVT, Levelland, Texas, operating on 1230 kilocycles with a power of 250 watts, unlimited time, and otherwise may not comply with the Standards of Good Engineering Practice with particular reference to providing the recommended minimum of interference-free service within its normally protected (0.5 mv/m) contour because of interference from Station KLVT and KGYN, operating on 1220 kilocycles with a power of 1,000 watts daytime only at Guymon, Oklahoma; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated May 24, 1954, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing, that Station KLVT, in a telegram dated June 24, 1954, protested the proposed operation by the applicant, and stated its intention to appear should a hearing be held; and

It further appearing, that the Commission, upon further consideration of the matter is of the opinion that a hearing is necessary;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the availability of other primary service to such areas and populations.

2. To determine whether the operation of the proposed station would involve objectionable interference with Station KLVT, Levelland, Texas, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to providing the recommended minimum of interference-free service within the proposed station's normally protected (0.5 mv/m) contour.

4. To determine whether, in light of the evidence adduced pursuant to the foregoing issues, the operation of the station proposed by Wallace Simpson would serve the public interest, convenience, and necessity.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

It is further ordered, That Herald Broadcasting Company, licensee of Radio Station KLVT, Levelland, Texas, is made a party to the proceeding.

Released: August 9, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-6359; Filed, Aug. 16, 1954; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-2501, G-2502]

CITIES OF ANNA AND JONESBORO, ILL.

NOTICE OF APPLICATIONS

AUGUST 10, 1954.

In the matters of City of Anna, Illinois, Docket No. G-2501; City of Jonesboro, Illinois, Docket No. G-2502.

Take notice that the City of Anna, Illinois (City of Anna), a municipal corporation organized and existing under the laws of the State of Illinois filed an application, on July 26, 1954, pursuant to section 7 (a) of the Natural Gas Act for an order directing Texas Eastern Transmission Corporation (Texas Eastern) to establish physical connection of its transportation facilities with the City of Anna's proposed natural gas distribution system, and to sell natural gas to the City of Anna for local distribution in the City of Anna.

The City of Anna proposes to interconnect its proposed facilities with the transportation facilities of Texas Eastern approximately 1½ miles southeast of its corporate limits.

The City of Anna estimates a maximum daily demand of 958 Mcf the first year, 1,138 Mcf the third year, and 1,288 Mcf the fifth year of operation. Annual volumes are estimated at 134,413 Mcf, 170,739 Mcf, and 201,039 Mcf for the first, third, and fifth years, respectively.

Take notice further that on July 26, 1954, the City of Jonesboro, Illinois (Jonesboro), a municipal corporation organized and existing under the laws of the State of Illinois, filed an application, pursuant to section 7 (a) of the Natural Gas Act, for an order directing

Texas Eastern to sell natural gas to it for local distribution in the City of Jonesboro.

Jonesboro proposes to interconnect its facilities with those of the City of Anna at a point on their contiguous border. Deliveries by Texas Eastern for Jonesboro would be made through the facilities of the City of Anna.

Jonesboro estimates a maximum daily demand of 166 Mcf the first year, 248 Mcf the third year, and 327 Mcf the fifth year of operation. Annual volumes are estimated at 28,136 Mcf, 39,952 Mcf, and 51,690 Mcf for the first, third, and fifth years, respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 30th day of August 1954. The applications are on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 54-6338; Filed, Aug. 16, 1954; 8:46 a. m.]

[Docket No. G-2503]

TEXAS EASTERN TRANSMISSION CORP.

NOTICE OF APPLICATION

AUGUST 10, 1954.

Take notice that on July 26, 1954, Texas Eastern Transmission Corporation (Applicant), a Delaware corporation with its principal place of business in Shreveport, Louisiana, filed an application and supplement thereto on July 30, 1954, (1) for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas pipeline facilities, and (2) for an order pursuant to section 7 of the act authorizing the abandonment of certain pipeline facilities, all as hereinafter described.

The project which Applicant seeks authorization to construct and operate consists of the following facilities:

(a) Approximately 481.5 miles of pipeline ranging in size from 3½" to 24" in diameter, to be constructed primarily in the southern portion of Applicant's system;

(b) New compressor stations totalling 86,900 compressor horsepower; and

(c) Additions to existing compressor stations totalling 36,020 compressor horsepower.

Applicant proposes to retire or abandon the following facilities:

(a) Its original Little Inch system between Baytown, Texas, and Moundsville, West Virginia, consisting principally of approximately 60 miles of 16" pipeline and approximately 1,108 miles of 20" pipeline, together with lateral and feeder lines attached thereto;

(b) Five compressor stations on its Little Inch system, together with appurtenant facilities; and

No. 159——5

(c) 128,200 compressor horsepower in existing compressor stations Nos. 5 through 20.

The application recites that Applicant proposes to convert the Little Inch facilities retired from gas service to the purpose for which they were originally constructed, the transportation of petroleum products. The proposed facilities will be utilized to perform the natural gas service now rendered by means of the facilities to be retired.

The estimated total cost of the proposed pipeline project is estimated to be $71,814,000.

Applicant requests that its application be heard under the shortened procedure pursuant to § 1.32 (b) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 30th day of August 1954. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 54-6339; Filed, Aug. 16, 1954; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[Nos. 30416, 30660]

CLASS RATES

MOUNTAIN PACIFIC TERRITORY AND TRANSCONTINENTAL RAIL, 1950; NOTICE OF HEARING

AUGUST 12, 1954.

Class rates, Mountain-Pacific Territory, No. 30416; Class rates, Transcontinental Rail, 1950, No. 30660.

The above-entitled proceedings are assigned for further hearing on October 18, 1954, at 9:30 o'clock a. m., at the United States Court Room, Savannah, Ga., before one or more members of Division 2 and Examiner Witters.

The evidence expected to be received at this hearing will be on behalf of the Southern Governor's Conference, the Southeastern Association of Railroad and Utilities Commissioners, the Atlanta Freight Bureau, the Acme Fast Freight, Inc., and other Freight Forwarders.

Copies of all exhibits and prepared statements should be mailed to parties of record 15 days before the date of the hearing, including 5 copies to the Commission in Washington, D. C.; 40 copies to H. C. Barren, 310 Union Station, Chicago, Ill., for the western railroads; 40 copies to Edwin A. Lucas, 1740 Suburban Station Bldg., Pennsylvania Railroad, Philadelphia, Pa., for the eastern railroads; and 20 copies to Joseph Marks, c/o Southern Railway System, Fifteenth and K Streets NW., Washington 13, D. C., for the southern railroads.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6344; Filed, Aug. 16, 1954; 8:48 a. m.]

[4th Sec. Application 29567]

GLYCERINE FROM HOUSTON AND DALLAS, TEX., TO LINCOLN, ILL.

APPLICATION FOR RELIEF

AUGUST 10, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Glycerine, other than crude, carloads and tank-car loads.

From: Houston and Dallas, Texas.

To: Lincoln, Ill.

Grounds for relief: Rail competition, circuity, rates constructed on the basis of the short line distance formula, and additional destination.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3967, supp. 370.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6269; Filed, Aug. 12, 1954; 8:52 a. m.]

[4th Sec. Application 29569]

COKE FROM ILLINOIS TO KEOKUK, IOWA

APPLICATION FOR RELIEF

AUGUST 11, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for carriers parties to schedule listed below.

Commodities involved: Coke, coke breeze, dust or screenings, carloads.

From: Points in Illinois on the Elgin, Joliet and Eastern Railway.

To: Keokuk, Iowa.

Grounds for relief: Rail competition, water competition, and additional routes.

Schedules filed containing proposed rates: R. G. Raasch, Agent, I. C. C. No. 767, supp. 23.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6292; Filed, Aug. 13, 1954; 8:48 a. m.]

[4th Sec. Application 29570]

GRAVEL FROM DICKASON PIT, IND., TO GRANT PARK AND MOMENCE, ILL.

APPLICATION FOR RELIEF

AUGUST 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for the Chicago & Eastern Illinois Railroad Company.

Commodities involved: Gravel, carloads.

From: Dickason Pit, Ind.

To: Grant Park and Momence, Ill.

Grounds for relief: Wayside pit competition.

Schedules filed containing proposed rates; Chicago & Eastern Illinois Railroad Company, I. C. C. No. 144, supp. 43.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6342; Filed, Aug. 16, 1954; 8:47 a. m.]

[4th Sec. Application 29571]

PAPER ARTICLES FROM KALAMAZOO, MICH., TO LOUISIANA, ALABAMA AND TENNESSEE

APPLICATION FOR RELIEF

AUGUST 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. No. 4367, pursuant to fourth-section order No. 17220.

Commodities involved: Paper articles, viz.: paper napkins or table clothes, paper, printed, imprinted or not printed, carloads.

From: Kalamazoo, Mich.

To: Baton Rouge and New Orleans, La., Mobile, Ala., and Memphis, Tenn.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6343; Filed, Aug. 16, 1954; 8:47 a. m.]