FEDERAL REGISTER

VOLUME 20 NUMBER 41

Washington, Tuesday, March 1, 1955

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10598

AMENDING EXECUTIVE ORDER NO. 10483,[1] ESTABLISHING THE OPERATIONS COORDINATING BOARD

By virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, it is ordered that subsections (b) and (d) of section 1 of Executive Order No. 10483 of September 2, 1953 (18 F. R. 5379) be, and they are hereby, amended to read, respectively, as follows:

"(b) The Board shall have as members the following: (1) the Under Secretary of State, who shall represent the Secretary of State and shall be the chairman of the Board, (2) the Deputy Secretary of Defense, who shall represent the Secretary of Defense, (3) the Director of the Foreign Operations Administration, (4) the Director of Central Intelligence, (5) the Director of the United States Information Agency, and (6) one or more representatives of the President to be designated by the President. Each head of agency referred to in items (1) to (5), inclusive, in this section 1 (b) may provide for an alternate member who shall serve as a member of the Board in lieu of the regular member representing the agency concerned when such regular member is for reasons beyond his control unable to attend any meeting of the Board; and any alternate member shall while serving as such have in all respects the same status as a member of the Board as does the regular member in lieu of whom he serves."

"(d) The Special Assistant to the President for National Security Affairs may attend any meeting of the Board."

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
February 28, 1955.

[F. R. Doc. 55-1831; Filed, Feb. 28, 1955; 11:07 a. m.]

[1] 18 F. R. 5379, 3 CFR, 1953 Supp., p. 104.

TITLE 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P. P. C. 612]

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—KHAPRA BEETLE

ADMINISTRATIVE INSTRUCTIONS DESIGNATING PREMISES AS REGULATED AREAS UNDER REGULATIONS SUPPLEMENTARY TO THE KHAPRA BEETLE QUARANTINE

Pursuant to § 301.76–2 of the regulations supplemental to the Khapra Beetle Quarantine (7 CFR 301.76–2, 20 F. R. 1012) under section 8 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161), administrative instructions are hereby issued as follows, listing warehouses, mills, and other premises in which infestations of the khapra beetle have been determined to exist and designating such premises as regulated areas within the meaning of said quarantine and regulations.

§ 301.76–2a *Administrative instructions designating certain premises as regulated areas under the khapra beetle quarantine and regulations.* Infestations of the khapra beetle have been determined to exist in the warehouses, mills, and other premises listed below. Accordingly, such warehouses, mills, and other premises are hereby designated as regulated areas within the meaning of the provisions in this subpart:

ARIZONA

Acme Bag and Burlap Co., 3200 South Seventh Street, Phoenix.

Al's Store, 106 Main Street, P. O. Box 38, Somerton.

Arizona Flour Fills, Ninth and Jackson Street, Phoenix.

Arizona Flour Mills, 75 South Second Street, Glendale.

Arizona Flour Mills, South Peart Road at S. P. RR., Casa Grande.

Arizona Flour Mills, 177 East Toole, Tucson.

Arizona Grain Storage Co., 100 South Nevada, Chandler.

Brown's Farm Store, 3555 East Washington, Phoenix.

Buckeye Seed and Feed Co., North First Street at S. P. RR., Buckeye.

Capitol Feed and Seed Co., 312 South Fifteenth Avenue, Phoenix.

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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Capitol Feed and Seed Co., 4 South Main, Gilbert.
Capitol Feed and Seed, South Pacific Street and East Dirklay Avenue, Coolidge.
Cotton Seed Delinting Co., 7100 South Seventh Street, Phoenix.
Farmers' Coop. Marketing Association, Highway 95, Yuma.
Farmers' Coop. Marketing Association, Roll.
Farmers' Coop. Marketing Association, 401 Eighth Street, Yuma.
Feeders Supply Co., 751 West Main, Mesa.
Haffley's Market, Beal Street, Kingman.
Northrup-King Seed Co., 953 Third Avenue, Yuma.
Peterson's Feed and Supply, 940 North Stone Avenue, Tucson.
Quick Seed and Feed, 2101 Grand Avenue, Phoenix.
Southern Feed and Hardware, 25 East Southern Avenue, Phoenix.
Southwest Flour and Feed, 347 East A Street, Glendale.
Stranges Market, 867 Second Avenue, Ajo.
Tovrea Land and Cattle Co., 5001 East Washington, Phoenix.
Tucson Hay and Grain Co., 4734 East Speedway, Tucson.
Valley Hay Market, 334 West Prince Road, Tucson.
Whitman Seed Co., Eleventh Street, Yuma.

CALIFORNIA

Angiola Elevator and Warehouse Co., Angiola.
Angiola Elevator and Warehouse Co., Alpaugh.
B & J Farm Service, 101 Walnut Street, Porterville.
Bakersfield Cattle Feeding Co. Ranch, Box 3155, Greenfield.
Beckwith and Co., 614 High Street, Delano.
Belluomini Milling Corp., 1616 U Street, Bakersfield.
Berchtold Grain and Implement House, 330 East Nineteenth Street, Bakersfield.
John Binnell (chicken ranch), 1607 South Cucamonga Avenue, Ontario.
Blythe Alfalfa Growers Association Warehouse Nos. 2 and 3, West Hobson Way, Blythe.
Blythe Feed and Seed Co., West Hobson Way, Blythe.
Gilbert Britton Ranch, on south side of Airport Road, 5 miles south of Williams.
Ralph Brown Ranch, on west side of Walnut Avenue, off Highway 20, approximately 6 miles west of Williams.
California Milling Co., East side of Santa Fe RR., Corcoran.
Camp and Mebane Cattle Co. Feed Yard, 3½ miles east of Cawelo on Lerdo Road, Cawelo.
Central Union High School Warehouse, 1001 Brighton Street, El Centro.
Central Valley Feed Yard, Inc., East Eighth Street and RR. tracks, Imperial.
J. E. Conrad Ranch, 18782 Livermore Street, Reedley.
Continental Warehouse Co., 600 L Street, Imperial.
Croley Milling Co., 628 B Street, Hayward.
Cutter Grain and Milling Co., west side of Santa Fe RR., Corcoran.
Desert Seed Co., Commercial and RR., El Centro.
Elm and North Feed Store, southeast corner Elm and North Streets, Fresno.
Flickenger Feed and Seed, 930 Eighteenth Street, Bakersfield.
L. W. Frick and Sons Feed Yard and Barn (Ranch), Arvin.
Bud Frye Ranch, 72155 Frankwood (2 miles north of Reedley), Reedley.
A. E. Garr Ranch, on west side of Ninth Street, ½ block south of I Street, Williams.
Will Gill and Sons Feed Yard, South Pine Street, Madera.
Glesby Brothers Grain and Milling Co., 147 East Olive, Monrovia.
Grange Co., 1152 G Street, Fresno.
Ray Harwell Ranch, Sandal Canal, Brawley.
Clifford Hatfield, 616 North H Street, Imperial.
F. J. Hauseur and Sons Feed Lot, located 2 miles south out of Orica, 1½ miles east on Oxalio Canal, Brawley.
J. B. Hill Co., North H Street, Fresno.
J. B. Hill Co., Selma.
Holtville Milk Coop., Holtville.
Harold Hunt Ranch, 742 Olive, El Centro (7 miles east of Heber).
Imperial Grain Growers' Association, 204 North Eighth, Brawley.
Imperial Hay Growers' Association, West Main and Rio Vista, Brawley.
Imperial Valley Milling Co., 250 East Fifth Street, Holtville.
Johnson & Drysdale Cattle Co., Route 1, Box 143, Calexico.
A. H. Karpe Greenfield Ranch, Station A, Box 187, Greenfield.
J. S. Kennedy Ranch, located in Long Valley, approximately 6 miles north of Highway 20, P. O. Clear Lake Oaks.
Kern County Land Co. Feed Yard, Gosford.
C. E. Kline Ranch, Route 2, Box 282, El Centro.
O. H. Kruse Grain & Milling Co., 1459 North Tyler Avenue, El Monte.
Marshall Seed and Feed Co., 126 South Sixth, El Centro.
John T. Martin Ranch, Route 1, Box 99, Earlimart.
Milham Farms, Blue Moon Ranch, Lerdo Road, Buttonwillow.
Minter Field-Kern County Warehouse, Cawelo.
Newman Seed Co., East Main Street, El Centro.
Northrup-King and Co., South U. S. Highway 99, Fresno.
Outsen Milling Co., 925 Bryant Street, San Francisco.
Penny-Neuman Grain Co., Kern and G Streets, Fresno.
Raymond A. Powell and Mike Denis Ranch, Route 1, Box 166, 1 mile north of Glenn.
Gilbert Pryor Ranch, near southeast corner of intersection of Abie Road and Lone Star Road, Williams.
Fred Reister Ranch, at northwest corner of intersection of Highway 20 and East Camp Road, Williams.
Sacramento Valley Milling Co., Ord Bend (3 miles north of Glenn).
San Joaquin Crops, 1600 T Street, Bakersfield.
San Joaquin Grain & Milling Co., 2030 Fourteenth Street, Bakersfield.
Leroy Schaad Ranch, at northwest corner of intersection of Ware Road and Lone Star Road, Williams.
Shaw and Dowar, ¾ mile north of Sandia, Holtville.
Elwood Sites Ranch, 2 miles south of Williams on west side of Zumwalt Road.
Snyder's Termite Control, 4428 Magnolia Avenue, Riverside.
Southwest Flaxseed Association, Eighth Street and RR. tracks, Imperial.
Starkey Bros. Dairy, Imperial.
Steiner Feed & Seed, 515 Nineteenth Street, Bakersfield.
Sumner Peck Ranch Co. Inc., Highway 33, 12 miles south of Mendota, Mendota.
Sunnyland Bulghur Co., 1435 Gearhart Street, Fresno.
Titsworth Milling Co., Calipatria Highway Brawley.
Triangle Grain Co., 10118 Artesia Place, Bellflower.
Tulare Lake Warehouse No. 1, on Santa Fe RR., Corcoran.
W. Upshaw, P. O. Box 523, ¾ mile west of north city limits, Imperial.
Vogel Seed & Feed, 860 Main Street, Brawley.
Warner Seed Co., 310 South Eighth Street, Brawley.
Wasco Hardware Co., 749 Seventh Street, Wasco.
Wattenbarger Feed & Hardware Store, 2521 East California Avenue, Bakersfield.
Wheatley Bros. Ranch, Imperial.
Williams Cooperative Warehouse Association, Sixth and F Streets, Williams.
R. B. Wilson Co. Feed Yard, 300 K Street, Brawley.
Wright Feed Yards, Seeley.

NEW MEXICO

Curry County Grain and Elevator Co., 600 Curry Avenue, Clovis.
Roberts Seed Co., south of Wheeler Avenue, between Claud and Eulie Streets, Texico.
Worley Mills, Inc., 122 Northeast Commercial, Portales.

These instructions shall be effective March 1, 1955.

These administrative instructions list warehouses, mills, and other premises in which khapra beetle infestations have been found to exist, and designate such premises as regulated areas under the regulations supplemental to the khapra beetle quarantine.

These instructions supplement khapra beetle quarantine regulations already effective. They must be made effective promptly in order to carry out the purposes of the regulations. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the foregoing administrative instructions are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 8, 37 Stat. 318, as amended; 7 U. S. C. 161)

Done at Washington, D. C., this 18th day of February, 1955.

[SEAL] W. L. POPHAM,
Chief, Plant Pest Control Branch.

[F. R. Doc. 55–1758; Filed, Feb. 28, 1955; 8:50 a. m.]

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

[Navel Orange Reg. 48, Amdt. 1]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914; 19 F. R. 2941), regulating the handling of navel oranges grown in Arizona and designated part of California, effective September 22, 1953, 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 recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (i) and (ii) of § 914.348 (Navel Orange Regulation 48; 20 F. R. 1068) are hereby amended to read as follows:

(i) District 1: 196,350 boxes;
(ii) District 2: 334,950 boxes.

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

Dated: February 24, 1955.

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

[F. R. Doc. 55-1755; Filed, Feb. 28, 1955; 8:49 a. m.]

PART 993—HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

AMENDMENT OF AMENDED ADMINISTRATIVE RULES AND PROCEDURES

Notice was published in the February 2, 1955, issue of the FEDERAL REGISTER (20 F. R. 706) that the Secretary of Agriculture was considering a proposed rule to approve a further amendment, submitted by the Prune Administrative Committee, of the amended administrative rules and procedures, issued pursuant to the applicable provisions of Marketing Agreement No. 110, as further amended, and Order No. 93, as further amended (19 F. R. 1301), regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047). Said proposed further amendment related to § 993.172 (b). In said notice, opportunity was afforded all interested persons to file written data, views, or arguments with respect thereto. No such written data, views, or arguments were filed, and the period provided therefor has now expired.

After consideration of all pertinent available information, it is concluded that the proposed amendment of the amended administrative rules and procedures as set forth in the aforesaid notice would tend to effectuate the declared policy of the act and should be approved.

Therefore: It is hereby ordered, That § 993.172 (b) of the aforesaid amended administrative rules and procedures (19 F. R. 5297, 6908) is amended to read as follows:

(b) *Sales by handlers.* Each handler shall file with the committee, for each month, prior to the 10th calendar day of the next succeeding month, a signed report on Form PAC 12.1, "Report of Sales," containing the following information: (1) The date, the name and address of the handler, and the period covered by the report; (2) the total tonnage of prunes sold by the handler unshipped at the beginning of the crop year plus sales during the crop year to the last day of the month reported upon; (3) the total tonnages sold in domestic markets, by uses; (4) the total tonnages sold in export markets, segregated as to countries; and (5) the total tonnages sold to Federal Government Agencies.

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

Issued this 24th day of February 1955, to be, and become, effective March 31, 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 55-1734; Filed, Feb. 28, 1955; 8:46 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53735]

PART 2—MEASUREMENT OF VESSELS

RECOGNITION OF ADMEASUREMENT RULES BY ICELAND

The Bureau of Customs has been advised through the Department of State of the United States of the ratification by the Government of Iceland on October 15, 1948, of the international convention for a uniform system of tonnage measurement of ships signed by a number of nations at Oslo, Norway, on June 10, 1947. That convention under its terms became effective on January 1, 1955. This Bureau, pending the conclusion of a present study of the rules of admeasurement of the principal maritime nations, has tentatively held that the international regulations for tonnage measurement of ships adopted under the Oslo Convention, the so-called "Oslo rules," do not substantially depart from the rules concerning the measurement for tonnage of vessels of the United States and has authorized until further notice the acceptance in United States ports of tonnages derived under the Oslo rules.

Accordingly, the first sentence of § 2.63 of the Customs Regulations is amended by the insertion of "Iceland," immediately after "Great Britain," and preceding "Italy."

(R. S. 161, 4154, as amended, sec. 3, 23 Stat. 119, as amended; 5 U. S. C. 22, 46 U. S. C. 3, 81)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: February 21, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 55-1745; Filed, Feb. 28, 1955; 8:47 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 1—GENERAL REGULATIONS

PUBLIC MEETINGS AND SPEECHES

Part 1 is amended by adding a new § 1.63, reading as follows:

§ 1.63 *Public meetings and speeches.* (a) Public meetings and assemblies, the making of speeches, and the expression of views publicly, will be permitted within a park or monument only if an official permit therefor be first obtained from the Superintendent. The Superintendent shall issue a permit designating the site to be used, except in the following circumstances: (1) When a prior application for the same time and place has been made which has been or will be granted; (2) when, in his judgment, such a meeting, assembly, or speech would be contrary to the purposes for which the park or monument is administered; or (3) when, in his judgment, the use of the park or monument at the time and in the manner requested would interfere or conflict with the comfort, convenience, and interest of the general public.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 21st day of February 1954.

DOUGLAS MCKAY,
Secretary of the Interior.

[F. R. Doc. 55-1730; Filed, Feb. 28, 1955; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix C—Public Land Orders

[Public Land Order 1075]

ALASKA

WITHDRAWING PUBLIC LANDS IN AID OF PROPOSED LEGISLATION

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 public lands in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws including the mining and mineral-leasing laws, in aid of proposed legislation:

FAIRBANKS MERIDIAN

T. 2 S., R. 3 E.,
Sec. 28, SW¼NW¼ (unsurveyed).

The area described contains 40 acres.

[SEAL] ORME LEWIS,
Assistant Secretary of the Interior.

FEBRUARY 21, 1955.

[F. R. Doc. 55-1729; Filed, Feb. 28, 1955; 8:45 a. m.]

[Public Land Order 1076]

ARIZONA

WITHDRAWING PUBLIC LANDS FOR USE IN CONNECTION WITH WUPATKI NATIONAL MONUMENT

By virtue of the authority vested in the President by the act of June 25, 1910 (36 Stat. 847) as amended by the act of August 24, 1912 (37 Stat. 947; 43 U. S. C. 141) and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Arizona, are hereby withdrawn from settlement, location, sale or entry under the public-land laws, and reserved for use of the National Park Service, Department of the Interior, in connection with the administration and maintenance of the Wupatki National Monument:

GILA AND SALT RIVER MERIDIAN

T. 25 N., R. 8 E.,
Sec. 3, W½, that part lying west of the west right-of-way line of U. S. Highway 89 (consisting of lot 4, SW¼NW¼, NW¼SW¼, part of the westerly portions of lot 3, SE¼NW¼, and E½SW¼).

The tract described contains approximately 240 acres.

ORME LEWIS,
Assistant Secretary of the Interior.

FEBRUARY 23, 1955.

[F. R. Doc. 55-1728; Filed, Feb. 28, 1955; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 55-238]

[Rules Amdt. 1-70]

PART 1—PRACTICE AND PROCEDURE

EXTENSION OF TIME PERIOD FOR FILING PETITION FOR RECONSIDERATION

In the matter of amendment of Part 1 of the Commission's rules and regulations by providing a 30-day period in all cases of reconsideration and setting aside Commission's action on its own motion.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of February 1955;

The Commission having under consideration the changing of the rules contained in Part 1 of its rules on the time for filing petitions for reconsideration and setting aside Commission's action on its own motion; and

It appearing that the amendment ordered herein would be in conformity with the provision in the Communications Act Amendments, 1952 extending the period for reconsideration of certain Commission actions and with the recently reenacted Part 0 of the Commission's rules and regulations; and

It further appearing that the amendment herein ordered is procedural in nature and therefore, compliance with the public rule making procedures required by sections 4 (a) and (b) of the Administrative Procedure Act is not required;

It is ordered, Pursuant to sections 4 (i) and 303 (r) of the Communications Act, as amended, and section 3 (a) of the Administrative Procedure Act that Part 1 of the Commission's rules and regulations is hereby amended, effective immediately, as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 48 Stat. 1081, 1082; 47 U. S. C. 301, 303)

Released: February 24, 1955.

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

Sections 1.390 (a) and (b), 1.726 (c) and 1.894 of the Commission's rules and regulations are amended by substituting in each of these sections and paragraphs the words "30 days" for the words "20 days" and by striking the last sentence of § 1.894.

1. As amended § 1.390 (a) and (b) read as follows:

§ 1.390 *Petitions for reconsideration or for rehearing.* (a) Where an application has been granted without a hearing, any person aggrieved or whose interests would be adversely affected thereby may file a petition for reconsideration of such action. Such petition must be filed with the Commission within 30 days after public notice is given of the Commission's action in granting the application. Such petition will be granted if the petitioner shows that:

(1) Petitioner is an existing licensee or permittee and a grant of the application would require the modification, revocation, or nonrenewal of his license or construction permit; or

(2) That petitioner is an existing licensee or permittee and a grant of the application would cause interference to his station within the normally protected contour as prescribed by applicable rules and regulations; or

(3) At the time the application was granted, petitioner had a mutually exclusive application pending before the Commission; or

(4) A grant of the application is not in the public interest.

(b) Where an application has been granted or denied after hearing, petitions for rehearing may be filed within 30 days after public notice is given of the Commission's action in granting or denying the application. Petitions for rehearing by persons not parties to the Commission's hearing will not be granted unless good cause is shown as to why it was not possible for such person to participate earlier in the Commission's proceeding.

2. As amended § 1.726 (c) reads as follows:

(c) The Commission may on its own motion set aside any action made or taken by it within 30 days after public notice is given of such action.

3. As amended § 1.894 reads as follows:

§ 1.894 *Time for filing.* Petitions for rehearing shall be filed within 30 days after public notice is given of the order or action complained of.

[F. R. Doc. 55-1760; Filed, Feb. 28, 1955; 8:50 a. m.]

[Docket No. 11226; FCC 55-237]

[Rules Amdt. 2-34]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS

TABLE OF FREQUENCY ALLOCATIONS

In the matter of amendment of § 2.104 (a) of Part 2 of the Commission's rules and regulations concerning the bands 10 kc to 3400 kc; Docket No. 11226.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of February 1955;

The Commission having under consideration its proposal in the above entitled matter; and

It appearing that in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, Notice of Proposed Rule making in this matter which made provision for the submission of written comments by interested parties, was duly published in the FEDERAL REGISTER on December 8, 1954, (19 F. R. 8067) and that the period for the filing of comments has now expired; and

It further appearing that no comments were filed in response to the Commission's proposal in this proceeding; and

It further appearing that the public interest, convenience and necessity will be served by the amendments herein ordered, the authority for which is contained in sections 303 (c), (f) and (r) of the Communications Act of 1934, as amended, the Final Acts of the International Telecommunication Radio Conference (Atlantic City, 1947) and the Agreement concluded at the Extraordinary Administrative Radio Conference (Geneva, 1951):

It is ordered, That, effective March 25, 1955, Part 2 of the Commission's rules is amended as set forth below.

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

Released: February 24, 1955.

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

Section 2.104 (a) is amended as follows:

1. Add the following bands to footnote 2 of § 2.104 (a) (3) (i) and (iii).

10—2035 kc
2107—2495 kc

2. Delete footnote NG33, as it applies to the bands 2300–2335 kc and 2335–2495 kc.

3. Add the footnote designator NG29, to column 8 for the band 2170–2194 kc. NG29 reads as follows:

NG29 The frequency 2182 kc may be authorized to fixed stations associated with the maritime mobile service for the sole purpose of transmitting distress calls and distress traffic, and urgency and safety signals and messages.

4. Amend footnote NG26 to read:

NG26 Fixed stations associated with the maritime mobile service may be authorized, for purposes of communication with coast stations, to use frequencies assignable to ship stations in this band on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

5. Add footnote designator NG26 to the bands 2000–2035 and 2194–2300 kc.

6. Delete existing footnote NG27 and its designator appearing in column 8 on bands between 14 kc and 3400 kc.

7. Add a new footnote designator NG27 to column 8 for the bands 2505–2850 kc and 3200–3230 kc. NG27 reads as follows:

NG27 Fixed stations in the Public Safety Radio Service may be authorized the use of frequencies in this band which are authorized to base and mobile stations of this service on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

[F. R. Doc. 55–1763; Filed, Feb. 28, 1955; 8:51 a. m.]

[Docket No. 11235; FCC 55–239]

[Rules Amdts. 2–35, 5–2]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS

PART 5—EXPERIMENTAL RADIO SERVICES

USE OF PULSED EMISSIONS IN CERTAIN FREQUENCY BANDS BY STATIONS OPERATED BY EDUCATIONAL INSTITUTIONS

In the matter of amendment of Part 2 and Part 5 of the Commission's rules and regulations concerning the use of pulsed emissions in the frequency band 2900–3246 Mc by stations operated by educational institutions for purposes of instruction and demonstration of microwave techniques; Docket No. 11235.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of February 1955;

The Commission having under consideration its proposed rule making concerning the above-entitled matter which was released on December 16, 1954;

It appearing that the Commission has received comments from Harry Rowe Mimno representing the Cruft Laboratory of the Harvard University that support the amendment as proposed;

It further appearing that no opposition to the Commission's proposal has been received;

It further appearing that in view of the foregoing facts the public interest would be served by providing for the subject operations as proposed;

It is ordered, That, pursuant to sections 4 (i) and 303 (c), (f) and (r) of the Communications Act of 1934, as amended, Parts 2 and 5 of the Commission's rules and regulations are amended as set forth below, effective March 25, 1955.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 48 Stat. 1081, 1082; 47 U. S. C. 301, 303)

Released: February 24, 1955.

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

1. Amend Part 2—Frequency Allocations and Treaty Matters, as follows:

In § 2.104 (a) (5), Table of Frequency Allocations add the footnote indicator NG39 to the band 2900–3246 Mc in column 7; and add footnote NG39 to read as follows:

NG39 Experimental stations used by educational institutions for purposes of technical instruction in, and demonstration of, microwave techniques using pulsed emissions only may be authorized to use frequencies in this band on the condition that harmful interference will not be caused to stations in the Radiolocation Service.

2. Amend Part 5—Experimental Radio Services, as follows:

Add the following paragraph to § 5.57 *Supplementary statements required:*

(f) *Applications involving technical demonstrations of equipment or techniques in the frequency band 2900–3246 Mc.* The provisions of paragraphs (a) and (b) of this section shall not be applicable to applications from educational institutions for an authorization in the Experimental Service (Research) to be used for technical instruction or demonstration of microwave techniques using pulsed emissions in the frequency band 2900–3246 Mc allocated for such use, under certain conditions, in Part 2 of this chapter. Instead, such applicants shall include, as a part of the application for construction permit, the following:

(1) A satisfactory showing that the operation of a radio transmitter in the band 2900–3246 Mc is essential to the institution's program of instruction.

(2) A satisfactory showing that the actual radiation of radio frequency energy is essential to the institution's program of instruction in lieu of using a dummy antenna, shielded room or other means to suppress of confine radiation.

(3) The estimated daily hours of operation and the estimated dates of the beginning and end of the specific time period for which the requested operation is required.

[F. R. Doc. 55–1761; Filed, Feb. 28, 1955; 8:50 a. m.]

[FCC 55–236]

[Rules Amdt. 17–3]

PART 17—CONSTRUCTION, MARKING AND LIGHTING OF ANTENNA STRUCTURES

REPORT OF RADIO TRANSMITTING ANTENNA CONSTRUCTION, ALTERATION, AND OR REMOVAL

In the matter of amendment of § 17.45 of the Commission's rules concerning report of completion of radio transmitting antenna construction.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of February 1955;

At the present time the Commission, pursuant to the provisions of § 17.45, requires permittees and licensees to report to the Director, U. S. Coast and Geodetic Survey, the completion of radio and TV tower construction for which obstruction markings are required. For this purpose, the Department of Commerce supplies the Commission with U. S. C. & G. S. Form 844 which the Commission in turn furnishes the station along with the construction permit.

The reporting of towers under construction is a matter equally important to the aviation industry, in the interest of safety of air navigation, as the reporting of towers whose construction is completed. The Federal Communications Commission has received a request from the U. S. Coast and Geodetic Survey to require permittees to report not only the completion but also the commencement of construction of the tower. A second tear car which will be used to report the commencement of construction has been added to the present postcard Form 844. As has been done heretofore, the Commission will enclose with each construction permit for which obstruction marking specifications are indicated, the Revised postcard Form 844 ttiled Report of Radio Transmitting Antenna Construction, Alteration and/or Removal". This card is to be completed and mailed to the U. S. Coast and Geodetic Survey at the time stipulated on the respective sections.

Since the amendments adopted herein are procedural in nature, provisions of section 4 of the Administrative Procedure Act are inapplicable.

It is ordered, That pursuant to authority contained in sections 4 (f) and 303 (r) of the Communications Act, § 17.45 *Report of completion of radio transmitting antenna construction* is amended, effective March 25, 1955, to read as follows:

§ 17.45 *Report of radio transmitting antenna construction, alteration and/or removal.* Any permittee or licensee who, pursuant to any instrument of authorization from the Commission to erect or make changes affecting antenna height or location of an antenna tower for which obstruction marking is required, shall, prior to start of tower construction and upon completion of such construction or changes, fill out and file with the Director, U. S. Coast and Geodetic Survey, C. & G. S. Form 844 (Report of Radio Transmitting Antenna Construction, Alteration and/or Removal) in order that antenna tower information may be provided promptly for use on Aeronautical Charts and related publications in the interest of safety of air navigation.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 48 Stat. 1081, 1082; 47 U. S. C. 301, 303)

Released: February 24, 1955.

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

[F. R. Doc. 55–1762; Filed, Feb. 28, 1955; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 978]

[Docket No. AO–184–A11]

HANDLING OF MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposals to amend the tentative marketing agreement and the order, as amended, regulating the handling of milk in the Nashville, Tennessee, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments to the tentative marketing agreement and to the order, as amended, were formulated, was conducted at Nashville, Tennessee, on November 9–12, 1954 (19 F. R. 7159). The material issues of record related to:

1. The type of pool to be provided under the order for distributing payments to producers.
2. The definition of milk plants to be fully regulated under the order.
3. The definition of producers whose milk is to be priced under the order.
4. The definition of a handler.
5. The classification of skim milk and butterfat in Class I milk.
6. The level of the Class I price.
7. The use of a supply-demand provision for adjusting the Class I price.
8. The rate of the Class I butterfat differential.
9. The level of the Class II price.
10. Rules governing the transfer of bases.
11. The definition and accounting provisions relative to other source milk.
12. Administrative and conforming changes in the order.

Findings and conclusions. The following findings and conclusions are based upon the evidence introduced at the hearing, and the record thereof:

1. The order should be amended to provide for the distribution of returns to producers on an individual handler pool basis. The marketwide pool which is now provided in the order has not been fully effective in channelling the returns from Class I sales in the Nashville marketing area to those producers supplying the milk for such sales. The record evidence indicates that it should be possible to assure necessary supplies of quality milk for the market at a lesser cost than at present and without lowering overall returns to producers regularly associated with the market. This may be accomplished by providing a pooling system which will reward more directly those producers who are engaged primarily in supplying milk to the Nashville market.

The hearing record indicates that two milk plants which participate in the pool dispose of very small or token quantities of Class I milk on routes in the marketing area. The association of these plants with the marketing area is only incidental, and might not exist if it were not for the advantages they enjoy in the purchase of milk through the operation of the marketwide pool. Very little or no bulk milk is normally supplied by these two plants to distributors doing business primarily in the marketing area. One of the plants became associated with the market only recently.

A large share of the regulated milk supply not closely associated with the market is manufactured into Class II products in the months of flush production, and sold as bulk milk for Class I use to other southern markets when local supplies are short in these markets.

This situation has had two undesirable effects so far as the Nashville market is concerned. It has resulted in lowered blend prices to the producers of the milk sold in the Nashville market whenever fluid outlets for bulk milk were not available in other southern markets and it has handicapped the operations of the supply-demand pricing provisions of the order in that they have reflected in large measure the seasonal and erratic nature of the demand for supplemental milk by other markets.

Lowered blend prices have been offset to some extent at least by premiums which have been paid frequently by Nashville handlers. During the three-year period beginning with September 1951 such premiums averaged 14.6 cents per hundredweight of Class I milk. Such premiums have not been paid each month in such a manner as to offset the lowering of blend prices through equalization payments to plants outside the marketing area. The premiums have had the effect, however, of maintaining annual returns to Nashville producers at levels at which they could continue to supply handlers serving the marketing area with adequate volumes of quality milk.

The supply-demand provision of the Class I price formula has caused rather wide fluctuations in Class I prices, some of which were not well adapted to the pricing needs of the Nashville market. The erratic nature of bulk sales to outside markets has been responsible to an important extent for some of these price changes. This situation was recognized by a number of handlers who proposed that such sales be eliminated from the calculation of the supply-demand adjustment.

It is concluded that distribution of returns from Class I sales on an individual handler basis will result in more effective utilization of such money so far as obtaining quality milk supplies for Nashville is concerned in that the handlers making primary use of milk for fluid sales will reflect such sales in higher blend prices to their producers.

The individual handler pool will offer no artificial incentive for additional plants, whose utilization data would not reflect local circumstances, to become affiliated with the pool.

The record indicates that all handlers doing business primarily in the marketing area are approximately self-sufficient so far as supplies of fluid milk are concerned, and that none of these handlers makes a practice of carrying extra milk for the purpose of supplying other handlers with supplemental milk. The individual handler pool should not therefore result in any dislocation, nor require any substantial adjustments so far as the Nashville marketing area is concerned.

2. The definition of plants to be fully regulated should be changed to include any plant which distributes Class I milk in the marketing area, or any plant which furnishes significant volumes of supplemental bulk milk to distributing plants under the order. The present definition of a regulated plant is contingent in part upon the method by which health department approval is extended to producers supplying such plant.

Only Grade A milk may be sold for Class I use in the marketing area. The producers and plants from which this milk comes may be inspected directly by the Davidson County health authority, or they may be inspected by another health authority whose services are acceptable to the Davidson County authority. No reason is evident why consumers would prefer milk inspected by any particular one of the health authorities whose milk is acceptable for Grade A use in the marketing area, or why all milk distributed for Class I use in the marketing area should not be subject to the same pricing standards under the order. If milk may be distributed to any portion of the marketing area, it may be distributed throughout the marketing area. Any plant distributing milk in the marketing area is in competition with most of the other regulated plants selling in the area. It is concluded, therefore, that all plants distributing Class I milk in the marketing area should be fully subject to the order.

It was proposed that all supply plants from which bulk milk is obtained should be subject to regulation to insure that all Class I milk distributed by regulated plants will be priced according to its utilization. This was considered neces-

sary to insure equity in the cost of milk to handlers and thereby insure the stability of the classified pricing system of the order.

Handlers contended that full regulation of all supply plants would handicap them in the business of securing supplemental milk supplies during the months of low production, since unregulated plants would be unlikely to sell one or two tankloads of milk if such sales would result in regulation under the Nashville order. The record discloses that Nashville handlers normally have approximately an adequate volume of producer milk to supply their Class I trade in the months of lowest production, but that a few tanks of extra milk are needed in some years.

In order to allow for the acquisition of such quantities of milk as have occasionally been required, it is concluded that a supply plant should not be subject to regulation during the months of lowest production unless it sends more than 60,000 pounds of Grade A milk and/or Grade A skim milk during the month to regulated distributing plants under the Nashville order. These volume requirements are such that needed milk can be obtained, but are not so large as to permit unpriced milk to be used for Class I in amounts which will threaten the stability of classified pricing under the order. Such exemptions from regulation are provided only during the months of short supply when the cost of outside milk may normally be equal to more than the order Class I price.

Milk plants primarily associated with other Federally regulated markets, and subject to full regulation under another order, should be exempt from regulation under the Nashville order.

All facilities, premises, and buildings of a milk plant should be considered as part of the same fluid milk plant, regardless of health authority restrictions on the use of any portion thereof. This will enable the market administrator to enforce the order more fully, and assure the assignment of producer milk to all Class I milk disposition from the plant.

If a handler operating a dual plant is disposing of nothing but Class II products from the ungraded portion of his plant this change may have no effect on his milk cost since the skim milk and butterfat he uses in the nonfluid portion of the plant will be assigned to the Class II dispositions involved. If any Class I disposition is made from any portion of a plant it should be assigned first to producer milk to the extent producer milk was available. It is not feasible or necessary for a market administrator to attempt to follow milk or milk products through a plant to determine which product is used for which purpose. If Class I milk is to be disposed of from any portion of the plant it is logical that the plant operator should use his best quality product for such purposes to the extent it is available.

Excess losses in any portion of the plant raise the same question, namely, whether the operator has fully accounted for his milk receipts. If not, it is impossible to determine which lot of milk or milk product was not accounted for in full.

3. The definition of producer should be amended to include any person producing Grade A milk which is shipped directly to a fluid milk plant. Any milk received by a fluid milk plant from such persons is deemed to be available for Class I sale in the marketing area. Such milk should be classified and priced, and the producer thereof should receive the protection of the order.

The present definition of producer, like that of a fully regulated plant, is contingent upon the method by which health department approval is extended. The producer definition should be changed in this respect in conformity with the changes set forth under material issue number two of this decision, and for the same reasons.

Diversion of producer milk should continue to be recognized so that such milk may be disposed of more readily when it is in excess of fluid requirements. No need was shown for diversion of producer milk for Class I use. Since diversion for Class II use is not normally necessary in the months of low production, with the possible exception of weekends or holidays, diversion should be recognized on no more than 10 days in any of these months.

4. A handler should be defined as any person in his capacity as the operator of one or more fluid milk plants. The handler is the person who receives milk from producers and is required to report such receipts and the utilization thereof, and to pay producers the minimum prices established by the order. In case a person operates more than one plant at which milk is to be priced, he is to be a handler with respect to the combined operations of such plants. The receipts and dispositions of these plants should be pooled together for purposes of determining classification, allocation, rate of payments to producers, and so on.

The handler definition should also include any cooperative association which diverts producer milk for its account. Although it was proposed that the provision for a cooperative to be a handler should not be included in the definition, such a provision appears necessary to assure stability in milk marketing in the Nashville area. A view was expressed that such provision might hamper the association in marketing milk to best advantage. However, we do not hold to a similar view. It may be noted that the order does not require the association to market member milk to any particular outlet.

It is important, however, that milk which is regularly associated with the Nashville market be fully reflected in the supply data for such market. Temporary diversion of milk without accounting therefor might interfere with computations pursuant to the base-excess provisions of the order. It would also impair the operation of the supply-demand provision of the order in that accurate supply data could not be compiled. Also, the market administrator now pays all producers under the Nashville order. If a cooperative association desired that producers whose milk it diverted be paid by the market administrator, it would be necessary for such an association to be a handler under the order with respect to such milk and such producers.

5. The Class I milk definition should be revised to eliminate therefrom specific reference to approval of products by the Nashville health authority as a basis for such classification of milk. The City of Nashville does not maintain a milk inspection department nor does it enforce any standards relative to milk grading or labeling. Primary reliance for safeguarding the milk supply of the city is placed on the health department of Davidson County, of which Nashville is a part.

In place of classification on the basis of such health department standard the order should classify all fluid items or mixtures of milk, skim milk or cream in fluid form as Class I milk unless specifically exempt. The items thus classified in Class I are normally required to be made from Grade A milk. Also, such a standard will avoid questions with respect to the classification of various fluid combinations of skim milk or cream items and various fortified milk drinks. This modification of order language will not result in any substantive change in classification as it is now carried out in the market.

Skim milk and butterfat contained in eggnog and aerated cream should be classified Class II milk. No health authority inspecting milk for the marketing area requires that such products be made from approved milk. Both eggnog and aerated cream made at least in part from ungraded products are now distributed in the marketing area. To require regulated handlers to pay Class I prices for these products places them at a disadvantage, and could result in the loss of such outlets for producer milk altogether. Classification in Class II milk will result in pricing producer milk used in such products at a competitive level.

6. The Class I price should be set at the level of the basic formula price plus $1.10 during the six months of flush production, and plus $1.40 during the six months of lowest production, plus or minus any amounts provided under a revised supply-demand adjustment hereinafter described. The average of these differentials is the same as the present Class I price differential.

Although the order has provided a stated year-round differential of $1.25 most of the time since its inception, this differential has prevailed only a comparatively small portion of the time, and not at all since August 1951. The supply-demand provision, together with the contra-seasonal features thereof previously in effect have resulted in prices considerably different from those arrived at by adding $1.25 to the basic formula price. As indicated previously, market-wide premiums were paid during many of these months. Most of the premiums, as well as a large proportion of the price increases under the supply-demand provisions were in effect during the months of lowest production. Price reductions

have ordinarily been in effect during spring and summer months.

Producer representatives contended that more or less regular wintertime increases under the supply-demand provisions are an important part of the pricing provisions for Class I milk and that such increases are normal considering the base utilization figures provided in the order and the level of milk production needed in Nashville. Evidence was introduced to indicate that during the year prior to the hearing the Class I price received averaged about $1.50 above the basic formula price in the six base-forming months and somewhat less than $1.10 over the basic formula price during the six remaining months of the year.

The record indicates that so far as the Nashville handlers are concerned the level of milk production which has resulted from such prices has been adequate. In most years local supplies during the months of lowest production were approximately equal to Class I sales plus essential reserves.

It is found in connection with issue number seven of this decision that the supply-demand provision of the order should be revised so that price changes are not made unless supplies are clearly out of line with the needs of the market. It is recommended that the base utilization percentages of the supply-demand provision should be adjusted for this purpose and that 12 months moving averages be used. This recommended change would result in a lower level of fall and wintertime prices and a higher level of spring and summer prices than has prevailed during most years. For this reason the stated differential should be revised to take into consideration seasonal price variations which have normally resulted from the operation of the supply-demand provision, and to recognize the level of Class I prices necessary to assure adequate supplies of pure and wholesome milk.

The prices herein recommended reflect the fact that wintertime Class I prices have for various reasons been higher than summertime prices, and that some seasonal variation will aid in the alignment of Nashville milk prices with those of surrounding markets. Alignment of Class I prices with outside markets is desirable since considerable milk is distributed by Nashville handlers outside the marketing area where local Class I prices vary seasonally. The amount of seasonal price variation recommended for the Nashville market will still be less than that in most surrounding markets.

Prices which would have prevailed during the past three years under the Class I pricing formula herein recommended are somewhat less than the prices actually paid by handlers for Class I milk during this period. It is likely that despite such lower Class I prices, Nashville producer returns would have been maintained at adequate levels had the pooling provisions herein recommended been in effect. It is concluded that the revised pooling provisions together with the pricing provisions herein recommended should be sufficient to insure that milk supplies will continue at adequate levels to meet Class I requirements of the Nashville marketing area.

The Class I prices herein provided are not out of alignment with the Class I prices provided under other Federal orders in the general area, in that they are less than such other prices plus the cost of transporting milk from such markets.

The record indicates that certain of the condenseries specified in § 978.50 (a) have discontinued operations. Reference to these plants, therefore, should be deleted from the order. Also, it was proposed that the applicable market price quotation used in the butter-powder component of the basic price formula be used as quoted by the Department of Agriculture, but that for simplification the basic price formula itself be rounded to the nearest whole cent. Such changes will have only minor effect upon the prices of the order, and will to considerable extent be compensating over a period of time. They should be adopted.

7. The supply-demand provisions of the order should be revised so that it will bring about price changes more nearly in line with the needs of the market.

Price changes under the present supply-demand provision are controlled to a considerable extent by market conditions not closely associated with Nashville. This results in part from the irregularity of bulk milk sales outside the market by handlers under the order. Such sales make up a substantial proportion of the Class I milk during some months of the year. It is influenced also by changes in the number of handlers regulated. Those handlers who may leave or join the pool in general are those not closely associated with the Nashville market. The record indicates that one additional handler has come under the order recently, and others may become regulated in the near future. Most of the business of these handlers is represented by production and sales outside the marketing area.

This decision provides for a change in the method of pooling producer returns under the order. Such a change may result in some unusual aberrations in the milk supply and sales of handlers under the order. As a result of the foregoing conditions, untimely price fluctuation may be brought about with the present supply-demand provision. It is concluded that, in view of the existing circumstances, the supply-demand provision should be changed so that the calculation of Class I price adjustments will be based on a 12-months moving average of utilization data. Such provision will mean that prompt price adjustments will be foregone. This is considered necessary however to assure an adequate measure of stability throughout the transition period.

A supply-demand provision of the type recommended herein must provide an average utilization figure for the year from which percentage point deviations may be calculated to determine price adjustments. Reserve milk equal to at least 5 percent of Class I is normally needed at any season to keep fluid outlets fully supplied. The Nashville market has had reserve milk in such volume during most months in recent years. Because of different seasonal changes in production and sales, however, a year-round margin of not less than 25 percent is considered necessary. This will allow for a peak reserve considerably above 25 percent during the months of flush production and should provide an adequate margin of safety so that local handlers may carry their own surplus. It is concluded, therefore, that price increases should be provided when year-round supplies are less than 125 percent of Class I sales. If supplies are below that level, it should be clear that additional milk is needed and that added price incentive is desirable to stimulate greater production.

On the other hand, if year-round supplies exceed Class I sales by more than 30 percent, it will be evident that additional production is not needed and Class I prices should be lowered to avoid encouraging production beyond the apparent needs of the market.

If seasonal patterns of utilization, or the coverage of the order with respect to production or sales should change significantly, these base utilization percentages might need to be reconsidered in the light of such new conditions. Because of the potential changes which may occur in the market under the order provisions herein recommended, the effective date of the operation of the supply-demand provision should be delayed until after the end of the current year. If significant changes in marketing practices which bear on the calculation of this percentage should take place before the beginning of the operation of this provision, it will be possible to reconsider the various factors of the provision before that time.

It was proposed that the supply-demand provision of the order be deleted entirely. This proposal fails to take into consideration the fact that such a provision may be useful in automatically adjusting Class I prices to help in keeping them at levels contemplated by the Act without resorting to the hearing procedure in each case. The amendment provisions herein recommended should eliminate most of the features of the provision which have been objected to under the Nashville order.

8. The Class I butterfat differential used in adjusting the Class I milk price should be reduced.

The present Class I butterfat differential is determined by multiplying the Chicago 92-score butter price by 0.13. It was proposed that the factor used in computing this differential be reduced from 0.3 to 0.12.

The record shows that the average butterfat test of Class I milk disposed of by Nashville handlers has declined from 3.46 in 1948 to 3.28 in 1953. This has been accounted for in part by decreasing cream sales and increasing sales of skim milk and skim milk drinks. Indications are also that there has been some reduction in the average butterfat test of whole milk.

A number of handlers in the Nashville market have recently undertaken a marketwide campaign to sell higher test-

ing fluid milk. New lines of premium milk have been added. Despite considerable advertising and promotion, sales of such milk have been negligible.

The average butterfat test in producer milk has changed little during the period while the order has been in effect, and has usually exceeded the test of Class I milk by more than one percent. It is concluded that the adoption of a lower butterfat differential for Class I milk will tend to encourage or facilitate greater use of butterfat by handlers in their Class I operations and bring about a closer balance between supplies and utilization of butterfat. The effect of such change on the overall cost of Class I milk would be a minor increase but not sufficient to justify changes in the Class I price herein recommended.

9. The Class II price should be fixed at 15 cents over the average of prices paid farmers by ten local milk manufacturing plants in the months of flush production and 25 cents over such price in the months of low production.

The hearing record indicates that there is a large number of milk manufacturing plants in the central Tennessee area. A large share of the excess milk from the Nashville market is disposed of to these plants. Many of these manufacturing plants pay premiums to dairy farmers for milk which is produced in barns with concrete floors and cooled. Since Grade A milk for the Nashville market is produced under these circumstances a number of Nashville producers have been able to market their own milk to such manufacturing plants at premium prices. According to record evidence, a large number of additional producers could, through proper hauling arrangements, shift their excess milk to such plants without incurring additional hauling costs. The premiums which Nashville producers have received for milk so diverted during the flush production months usually amounts to around 15 cents per hundredweight over the ungraded milk price.

Regulated handlers have also marketed much of the excess milk received by them to ungraded plants for manufacture. Some premiums have been received for such milk but these have often been insufficient to offset handling and hauling costs according to testimony by handlers.

Diversion of producer milk directly to manufacturing plants has not been widely used in the Nashville market, although many producers are conveniently located with respect to such plants. Diversion of this kind is sometimes used to avoid duplication of handling costs with respect to Class II milk. One reason suggested for the lack of diversion in the Nashville market was that handlers were able to keep better quality control if they received milk themselves before shipping it for manufacture. While this may be a necessary measure in assuring milk of proper quality for Class I use, no evidence was adduced to indicate why Class II milk sales, rather than Class I sales, should bear the cost of a careful quality control program. The premiums on Class II milk received by producers over the local plant paying prices were contingent only upon type of barn, and cooling facilities, and not upon the careful quality control program such as Grade A inspection involves.

A representative of a producer marketing association testified that he had been offered a market for a large volume of Grade A milk for manufacturing uses. This milk could be sold at a premium over ungraded prices paid by manufacturing plants in the area as reflected by the present Class II pricing formula of the order.

The record indicates that surplus Grade A milk supplies tend to be scarcer during the fall and winter months than in the spring. The lower volume of such milk during these months should permit the use thereof in the preferred outlets for manufacturing milk. The Class II price should be slightly higher during these months to reflect these conditions. Such higher prices will aid also in maintaining maximum use of producer milk in Class I outlets, and discourage acquisition by handlers of greater milk supplies than are needed to maintain Class I sales on a year-round basis. In order to avoid dislocations because of excessive prices, the Class II milk price should not be permitted to exceed the basic formula price.

The record indicates that one of the local milk manufacturing plants, the average pay price of which is utilized in fixing the Class II prices of the order, has discontinued its operations. It was suggested that the Sumner County Cooperative Creamery, at Gallatin, Tennessee, be substituted for this plant. Several milk manufacturing plants are competing for the purchase of ungraded milk from dairy farmers in the Gallatin area. The historical pay prices of this plant reflect such competition. It was pointed out on the hearing record that because the creamery is operated as a cooperative, its patrons may receive more for their milk than is reflected by the stated pay price. The evidence indicates however that the monthly prices are at such a level as to reflect current market values in the area for ungraded milk. It is concluded that the proposed substitution will help to maintain the representative nature of the quotation for the purposes intended under the order. Other plant substitutions were suggested, but data were not presented to show the prices paid by such plants.

The Class II price should be rounded to the nearest whole cent to simplify the calculations required under the order.

10. The base rules should be amended to modify the restrictions to the transfer of bases. Present base rules permit a producer to transfer his base only in case of death, retirement or entry into military service, such transfers to be made only to members of the immediate family.

Base-excess rules were designed to encourage producers to build bases by increasing production during the months when milk is in short supply and to pay for excess milk above market needs in the summer only at its sale value, which is primarily for manufacturing purposes. No producer is entitled to consider that he owns a certain portion of the market by virtue of his assigned base. It is recognized, on the other hand, that a producer who adjusts his production under the base-excess plan to even out seasonal variations may suffer financial loss, if for some reason other than death or entry into military service he must discontinue milk production. The present base rules permit transfers of bases also in case of "retirement." The order does not provide an interpretation as to the standards for determining retirement. The term may be loosely interpreted to include a producer who is merely going out of the dairy business, or it may be interpreted according to various other standards. The record indicates that it is impractical for a market administrator to interpret this term precisely, and that producers may be encouraged to resort to subterfuge, if they stand to lose because of the operation of the base rules. The record indicates also that a strict interpretation of the rule may result in undue hardship on producers who must liquidate their businesses at a time other than at the beginning of the base forming period.

A free transfer of bases will not defeat the purpose of the base-excess plan so long as such transfers are limited to entire bases. The purpose of the base-excess plan is to encourage winter production so the producer will have a larger share in the Class I market during the following season of high production. Transfer of bases as herein recommended will give added assurance to a producer that he will have the full benefit of any base he is able to build whether or not he is able to continue milk production through the following summer for his own account. This additional certainty should increase the effectiveness of the base-excess plan in encouraging wintertime production of milk.

Since the purpose of the proposed base transfer rules is to alleviate hardship cases, they should be limited to entire bases. Permission for transfer of partial bases would result in administrative difficulty, and would facilitate arrangements whereby producers might attempt to gain regular financial advantage by disposing of any portion of their base which they could not use themselves. This process would tend to defeat one purpose of the base-excess plan, namely, the encouragement to each producer to adjust his own production pattern to the Class I milk sales pattern of the market.

Bases should be transferred by the market administrator only as of the first of the month, and only upon advance receipt of a statement on approved forms indicating the holder of such base and the person to whom the base is to be transferred, and signed by both parties.

11. The other source milk definition should be changed so that it includes manufactured milk products which are utilized or reprocessed in the plant during the month regardless of the origin of such products. This will assure a full accounting of all skim milk and butterfat which may be utilized in the plant during the month for Class I outlets. It will eliminate the requirement that Class II items brought into a plant and held in inventory be classified. It will elimi-

nate also the requirement that the market administrator trace the identity of individual lots of milk products in a plant. Testimony in the record indicates that both of these requirements are impractical and unnecessary to insure priority of assignment of current receipts of producer milk to the entire Class I sales of the plant.

In order to carry out this change it is important that the order specify clearly how inventories will be handled and that complete accounting for other source milk be secured.

Inventories of fluid items should be classified Class II milk at the end of the month, and the order should specify that a reclassification charge be made during the following month to the extent that such inventories are later assigned to Class I use. This will involve only minor changes since the order presently classifies inventory variations as Class II milk.

In order to assure complete accounting for other source milk products the same shrinkage allowances should be applied to such milk as to producer milk. Complete records should be kept by each handler regarding all nonfat milk solids and butterfat received or handled or held in inventory, regardless of the definition of such products under the order. Provision should be made to require such records.

12. A number of conforming changes should be made in the order. The proposal that supply plants be regulated under certain circumstances makes it essential that transportation allowances be provided in connection with the pricing provisions of the order. Such allowances should be granted plants located at a distance from the market. They should be made in recognition of the fact that a handler who receives producer milk at a distance from the market assumes the burden and cost of transporting such milk to the marketing area. To fail to grant such allowances might make the cost of milk prohibitive to supply plants located in areas at a considerable distance from Nashville, and would force a producer in these areas to send his milk directly to the market if it is to be marketed in Nashville at all. Long distance hauling in producer cans is not practical from quality point of view, and is expensive.

The transportation allowances herein recommended are based on the cost of hauling milk in bulk tank lots as indicated in the record, and apply only to Class I milk, and to producer payments. No difference in value of Class II milk is recognized because of its location.

The order should be amended to specify the number of decimal points to be used in connection with the price and differential quotations under the order. This will provide uniformity and facilitate the computations required under the order.

The various steps involved in the calculation of prices to be paid by the market administrator to individual producers should be altered to reflect handler pooling. The producer settlement fund now held by the market administrator should, upon the effective date of the order be prorated into separate funds for each handler based on his volume of producer milk during the last month of operation under the marketwide pool. Such funds should then be maintained through subsequent pools in a manner similar to that now carried out under the marketwide pool except that a separate fund will be maintained for each handler. Such funds will permit the market administrator to make prompt adjustments in producer payments in cases where errors are found. It can be used also to adjust accounts when errors in handler reports are discovered as a result of audits.

In case a handler ceases to be regulated under the order the fund should be dispersed on a pro rata basis to producers from whom he received milk during the last month in which he was regulated.

Rulings on proposed findings and conclusions. A number of briefs were filed which contained statements of fact, proposed findings and conclusions, and arguments with respect to the provisions of the proposed amendments. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the findings and conclusions proposed in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in the recommended decision.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

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

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

Recommended marketing agreement and order, amending the order, as amended. The following order regulating the handling of milk in the Nashville, Tennessee, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as amended, and as hereby proposed to be further amended.

DEFINITIONS

§ 978.1 *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.).

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

§ 978.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress, or by Executive order, to perform the price reporting functions of the United States Department of Agriculture.

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

§ 978.5 *Nashville, Tennessee, marketing area.* "Nashville, Tennessee, marketing area" hereinafter called the "marketing area" means all the territory within the boundaries of Davidson County, Tennessee, including but not limited to the cities of Nashville and Belle Meade.

§ 978.6 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

§ 978.7 *Producer-handler.* "Producer-handler" means any person who produces Grade A milk under a dairy farm inspection permit issued by any duly constituted health authority, and who processes milk from his own production, all or a portion of which is distributed within the marketing area as Class I milk, but who receives no milk from producers.

§ 978.8 *Fluid milk plant.* "Fluid milk plant" means all the premises, buildings and facilities of any milk receiving, processing or packaging plant from which plant: (a) Fluid milk products are disposed of during the month on routes (including routes operated by vendors and sales through plant stores) to retail or wholesale outlets (except fluid milk plants) in the marketing area; (b) Grade A milk or skim milk is shipped during the month for any of the months of January through August to plants specified under paragraph (a) of this section; or (c) Grade A milk or skim milk equal to more than 60,000 pounds is shipped during the month for any of the months of September through December to plants specified under paragraph (a) of this section.

§ 978.9 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk man-

ufacturing, processing, or packaging plant other than a fluid milk plant described in § 978.8.

§ 978.10 *Handler.* "Handler" means (a) any person in his capacity as the operator of one or more fluid milk plants, or (b) any cooperative association of producers with respect to producer milk diverted by it from a fluid milk plant to a nonfluid milk plant for the account of such association.

§ 978.11 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a fluid milk plant: *Provided,* That if such milk is diverted for his account by a handler from a fluid milk plant to a nonfluid milk plant any day during the months of March through August, or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received by the diverting handler at a fluid milk plant at the location of the plant from which it was diverted.

§ 978.12 *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 the fluid milk plant to a nonfluid milk plant in accordance with the conditions set forth in § 978.11.

§ 978.13 *Fluid milk products.* "Fluid milk products" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream, and any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix and aerated cream).

§ 978.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month of fluid milk products except (1) fluid milk products received from other fluid milk plants, or (2) producer milk; and (b) products, other than fluid milk products, from any source (including those from a plant's own production), which are reprocessed or converted to another product in the fluid milk plant during the month.

§ 978.15 *Base milk.* "Base milk" means milk received at fluid milk plants from a producer during any of the months of March through August which is not in excess of such producer's daily average base computed pursuant to § 978.60 multiplied by the number of days in such month.

§ 978.16 *Excess milk.* "Excess milk" means milk received at fluid milk plants from a producer during any of the months of March through August which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 978.60.

MARKET ADMINISTRATOR

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

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

(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.

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

(a) Within 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;

(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 § 978.85, (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 § 978.86, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly disclose to handlers and producers, at his discretion, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 978.30 and 978.31, or (2) payments pursuant to §§ 978.80, 978.83 and 978.85;

(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, general statistics and information concerning the operation of this order;

(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 by posting in a conspicuous place in his office and by such other means as he deems appropriate the following: (1) The 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (2) the 10th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; and (3) the 10th day after the end of each month, the uniform price(s) for each handler, computed pursuant to § 978.71 or § 978.72, and the producer butterfat differential for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 978.30 *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 for each of his fluid milk plants for such month to the market administrator in the detail and on forms prescribed by the market administrator:

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

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other fluid milk plants;

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

(d) Inventories of fluid milk products 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.

§ 978.31 *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 request.

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

(1) On or before the 6th day after the end of each month for each producer from whom milk was received (i) his name and address, (ii) the total pounds and butterfat content of milk received from such producer during the month, (iii) for the months of March through August his total pounds of base milk and excess milk separately, and (iv) the amount of any deductions authorized in writing by such producer to be made from payments due for milk delivered;

(2) On or before the 21st day of each month, the name and address of each producer from whom milk was received during the first 15 days of such month; and the pounds of milk so received during said period from such producer; and

(3) On or before the first day in any month during which other source milk is received in the form of fluid milk products his intention to receive such milk, and on or before the last day such milk is received his intention to discontinue such receipts.

§ 978.32 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual

hours of business, make available to the market administrator, or his representative, such records and facilities as will enable the market administrator to, (a) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (b) weigh, sample and test for butterfat content all milk and milk products handled; (c) verify deductions authorized by producers and the disbursement of moneys so deducted; and (d) make such examinations of operations, equipment, and facilities as the market administrator deems necessary.

§ 978.33 *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 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if within such 3-year period the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation, or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 978.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat to be reported for fluid milk plants pursuant to § 978.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 978.41 through 978.45.

§ 978.41 *Classes of utilization.* Subject to the conditions set forth in §§ 978.42 through 978.45, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat; (1) disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) of this section, and (2) not specifically 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 products other than fluid milk products; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of and used for livestock feed; and (4) in shrinkage not to exceed 3 percent respectively of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 978.11) and other source milk: *Provided,* That if shrinkage of skim milk or butterfat is less than 3 percent of such amounts it shall be assigned pro rata respectively to the skim milk and butterfat contained in such producer milk and other source milk.

§ 978.42 *Responsibility of handlers.* All skim milk and butterfat to be classified pursuant to this order shall be classified Class I milk unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified Class II milk.

§ 978.43 *Transfers.* (a) Skim milk and butterfat transferred to the fluid milk plant of another handler (except a producer-handler) in the form of fluid milk products shall be classified Class I milk unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 978.30: *Provided,* That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the amount thereof remaining in Class II milk in the fluid milk plant(s) of the transferee for such month after the subtraction of other source milk pursuant to § 978.45, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk.

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified as Class I milk.

(c) Skim milk and butterfat transferred or diverted in bulk form as milk, skim milk or cream to a nonfluid milk plant located less than 100 miles from the City Hall at Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified Class I milk unless, (1) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 978.30 for the month within which such transaction occurred, (2) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such 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 utilized in the nonfluid milk plant in the use indicated in such statement: *Provided,* That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use the pounds transferred in excess of such actual use shall be classified Class I milk.

(d) Skim milk and butterfat transferred in bulk form as cream to a nonfluid milk plant located 100 miles or more from the City Hall in Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 978.30, (2) such cream is disposed of and used as other than Grade A under a Grade A certification or label, (3) the handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only," (4) the handler notifies the market administrator 24 hours in advance of his intention to make such Class II disposition, and (5) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification.

§ 978.44 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors the reports of each handler submitted pursuant to § 978.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk in the fluid milk plant(s) of such handler.

§ 978.45 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 978.44, 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 in producer milk classified pursuant to § 978.41 (b) (4);

(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 pounds 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 excess 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 fluid milk products 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 excess 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 pounds of skim milk transferred from the fluid milk plants of other handlers in the form of fluid milk products according to the classification thereof as determined pursuant to § 978.43 (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; and

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, pursuant to paragraphs (a) and (b) of this section, and determine the percentage of butterfat in each class.

MINIMUM PRICES

§ 978.50 *Basic formula price.* The basic formula price shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to paragraphs (a), (b), (c) or (d) of this section, rounded to the nearest whole cent.

(a) To the average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the month:

Location and Present Operator

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

add an amount computed by multiplying the butterfat differential computed pursuant to § 978.82 by 5.

(b) The price per hundredweight obtained by adding any plus amounts obtained pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiplying by 4.0 the average as computed by the market administrator of the daily wholesale selling 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 month, and add 20 percent thereof;

(2) From the weighted average of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, 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, subtract 5 cents and multiply by 7.5.

(c) 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 milk plants 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;

Location and Present Operator

Cudahy Packing Company, Lafayette, Tenn.
Carnation Company, Murfreesboro, Tenn.
Kraft Foods Company, Gallatin, Tenn.
Kraft Foods Company, Pulaski, Tenn.
Borden Company, Fayetteville, Tenn.
Borden Company, Lewisburg, Tenn.
Lakeshire-Marty Cheese Company, Carthage, Tenn.
Sumner County Cooperative Creamery, Gallatin, Tenn.
Swift & Company, Lawrenceburg, Tenn.
Wilson & Company, Murfreesboro, Tenn.

(d) The price per hundredweight computed as follows:

(1) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month;

(2) Add 2.4 times the average of the weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided,* That if the price of "Twins" is not quoted on such Exchange, the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by 7, add 30 percent thereof, and then multiply by 4.

§ 978.51 *Class prices.* Subject to the provisions of §§ 978.52 and 978.53, 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 $1.40 during the months of September through February, and plus $1.10 during all other months, plus or minus a supply-demand adjustment calculated for each month after December 1955 as follows:

(1) Divide the total hundredweight of producer milk of all fluid milk plants for the twelve-month period ending with the beginning of the preceding month, by the net hundredweight of Class I milk disposed of from all fluid milk plants during the same period and multiply by 100. The resulting figure rounded to the nearest whole percentage shall be known as the utilization ratio.

(2) For each percentage by which the utilization ratio calculated for the month pursuant to subparagraph (1) of this paragraph exceeds 130 subtract from, or for each percentage by which it is less than 125 add to, the Class I price, 1 cent.

(b) *Class II milk price.* The Class II milk price shall be the price determined pursuant to § 978.50 (c) plus 15 cents during the months of February through August, and plus 25 cents during all other months: *Provided,* That in no case shall such price exceed the basic formula price.

§ 978.52 *Butterfat differentials to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 978.51 shall be increased or decreased, respectively, for each one-tenth percent variation in butterfat content 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 0.115 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 month, and round to the nearest one-tenth cent.

§ 978.53 *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 Hall, Nashville, Tennessee, by shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to another fluid milk plant in the form of fluid milk products and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 978.51 (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 Hall, Nashville, Tenn. (miles):	*Rate per hundredweight (cents)*
50 but not more than 60	15.0
For each additional 10 miles or fraction thereof an additional	1.5

Provided, That for purpose of calculating such location differential, fluid milk products which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 978.45 (a) (1), (2) and (3), and the comparable steps in § 978.45 (b) for such plant, such assignment to the plant from which transferred to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

DETERMINATION OF BASE

§ 978.60 *Computation of daily average base for each producer.* Subject to the rules set forth in § 978.61, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer at all fluid milk plants during the months of September through February immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of February, inclusive, or by 120, whichever is more.

§ 978.61 *Base rules.* The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 978.60 to each person for whose account producer milk was delivered to fluid milk plants during the months of September through February.

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, or assigns and by the person to whom such base is

to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs, or assigns.

§ 978.62 *Announcement of established bases.* On or before March 25, of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily average base established by such producer.

DETERMINATION OF UNIFORM PRICES

§ 978.70 *Net obligation of handlers.* The net obligation of each handler for producer milk received at his fluid milk plant(s) each month shall be a sum of money computed by the market administrator as follows: (a) Multiply the total 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 pursuant to § 978.45 (a) (6) and (b) by the applicable class price; and (d) add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat in Class II milk after making the calculations for such handler pursuant to § 978.45 (a) (4) and (b) for the preceding month, or by the hundredweight of milk subtracted from Class I milk pursuant to § 978.45 (a) (3) and (b) for the current month, whichever is less.

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

(a) Add to the amount computed for such handler pursuant to § 978.70 the sum of the location differential deductions to be made pursuant to § 978.82 (b);

(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 his producer milk;

(c) Add the amount remaining in the reserve fund for such handler; and

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler; and

(e) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. marketing area.

§ 978.72 *Computation of the uniform prices for base milk and for excess milk for handlers.* For each of the months of March 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 for such handler pursuant to § 978.70 the sum of the location differential deductions to be made pursuant to § 978.82 (b);

(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 his producer milk;

(c) Add the amount remaining in the reserve fund for such handler;

(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 total 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 excess value 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 for such handler;

(g) Subtract not less than 4 cents, nor more than 5 cents. 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. marketing area; and

(h) Divide the value obtained pursuant to paragraph (d) of this section by the hundredweight of excess milk in the producer milk of such handler. 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, f. o. b. marketing area.

§ 978.73 *Notification of handlers.* On or before the 10th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount of his producer milk allocated to each class;

(b) The calculation of such handler's net obligation pursuant to § 978.70;

(c) The uniform price(s) computed for such handler pursuant to §§ 978.71 and 978.72 and the producer butterfat differential computed pursuant to § 978.82 (a); and

(d) The amounts to be paid by such handler pursuant to §§ 978.80, 978.85 and 978.87.

PAYMENTS

§ 978.80 *Payments to market administrator.* (a) On or before the 25th day of each month each handler shall pay to the market administrator for deposit into the reserve fund for such handler a sum of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class II price for the preceding month.

(b) On or before the 12th day after the end of each month each handler shall pay to the market administrator for deposit into the handler's reserve fund an amount of money equal to such handler's net obligation for such month as determined pursuant to § 978.70 less payments made pursuant to paragraph (a) of this section for such month and less proper deductions authorized in writing by producers from whom such handler received milk.

§ 978.81 *Payments to producers.* (a) On or before the last day of each month the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 978.80 (a) at not less than the Class II price per hundredweight for the preceding month.

(b) On or before the 15th day after the end of each month the market administrator shall make payment to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 978.80 (b) for each of the months of September through February, at not less than the uniform price for such handler computed pursuant to § 978.71, or for each of the months of March through August, for base milk and excess milk received from such producer at not less than the uniform price(s) of such handler for base milk and excess milk, respectively, computed pursuant to § 978.72, subject to the following adjustments: (1) Butterfat and location differentials pursuant to § 978.82, (2) less payments made pursuant to paragraph (a) of this section, (3) less marketing service deductions pursuant to § 978.86, (4) less proper deductions authorized in writing by the producer, and (5) adjusted for any error in calculating payment to such individual producer for past months: *Provided*, That if the market administrator has not received full payment from any handler for such month pursuant to § 978.80, he shall reduce uniformly per hundredweight his payments due such handler's producers for milk received by such handler by a total amount not in excess of the amount due from such handler: *Provided further*, That the market administrator shall make such balance of payment to such producers on or before the next date for making payments pursuant to this paragraph following that on which such balance of payment is received from such handler.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section the market administrator shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payment has been received, a total amount equal to but not less than the sum of the individual payments otherwise payable to such producers pursuant to this section.

§ 978.82 *Butterfat and location differentials to producers.* (a) The applicable uniform prices to be paid each producer pursuant to § 978.81 (b) shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the average of the daily wholesale prices per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the month in which the milk was received by 0.12 and adjusting to the the nearest even one-tenth of a cent.

(b) In making payment to producers pursuant to § 978.81 (b), the applicable uniform prices to be paid for producer milk received at a fluid milk plant located 50 miles or more from the City Hall, Nashville, 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 Hall, Nashville, Tenn. (miles):	*Rate per hundredweight (cents)*
50 but not more than 60	15
For each additional 10 miles or fraction thereof an additional	1.5

§ 978.83 *Statement to producers.* In making payments required by § 978.81 (b) the market administrator shall furnish each producer or cooperative association with a supporting statement in such form that it may retained by the producer or cooperative association which shall show:

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

(b) The total pounds and the average butterfat content of milk delivered by the producer including for the months of March through August, the pounds of base milk and excess milk;

(c) The minimum rate or rates at which payment to the producer or cooperative association is required under the provisions of §§ 978.81 and 978.82;

(d) The amount or the rate per hundredweight of each deduction claimed by the handler including any deduction made pursuant to § 978.86 together with a description of the respective deductions; and

(e) The net amount of payment to the producer or cooperative association.

§ 978.84 *Reserve funds.* The market administrator shall maintain for each handler a reserve fund into which he shall deposit the appropriate payments made by such handler pursuant to §§ 978.80 and 978.87, and out of which he shall make the appropriate payments required for such handler pursuant to §§ 978.81 and 978.87.

§ 978.85 *Expense of administration.* As his pro rata share of this order, each handler shall pay to the market administrator, on or before the 15th day after the end of each month, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the month, of (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I milk pursuant to § 978.45.

§ 978.86 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, the market administrator in making payments to producers pursuant to § 978.81, shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk received by handler(s) from producers during the 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. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary determines is performing the services specified in paragraph (a) of this section for its members, the market administrator shall, in lieu of the deductions provided in paragraph (a) of this section, make such deductions as are authorized by such producers, and on or before the 15th day after the end of each month, pay the money so deducted to such cooperative association.

§ 978.87 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors, resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 978.88 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before March 1, 1950, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order, 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 receives the handler's utilization report on the milk involved in such obligations, 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 order, to make available to the market administrator or his representatives all books and records required by this order 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 representative.

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

(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 order 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.

APPLICATION OF PROVISIONS

§ 978.90 *Producer-handlers.* Sections 978.40 through 978.45, 978.50 through 978.53, 978.60 through 978.62, 978.70 through 978.73, and 978.80 through 978.87 shall not apply to a producer-handler.

§ 978.91 *Plants subject to other Federal orders.* A plant specified in paragraph (a) or (b) of this section shall be treated 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 § 978.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 978.8 (a) which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk is disposed of from such

plant to retail or wholesale outlets (except fluid milk plants) in the Nashville marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 978.8 (b) or (c) which would be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a fluid milk plant pursuant to § 978.8 (c) for each of the preceding months of September through December.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 978.100 *Effective time.* The provisions of this order or any amendments to this order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

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

§ 978.102 *Continuing power and duty of the market administrator.* (a) If, upon the suspension or termination of any or all of the provisions of this order, there are any obligations arising under this order, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator, shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 978.103 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this order, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this order, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator, or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

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

§ 978.111 *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 order.

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

Issued at Washington, D. C., this 24th day of February 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 55–1733; Filed, Feb. 28, 1955; 8:46 a. m.]

Agricultural Research Service

[7 CFR Part 319]

PACKING MATERIALS UNDER NURSERY STOCK, PLANTS AND SEEDS QUARANTINE

PROPOSED AMENDMENT OF ADMINISTRATIVE INSTRUCTIONS

On October 8, 1954, there was published in the FEDERAL REGISTER (19 F. R. 6504) under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), a notice of rule making relating to the proposed amendment of the introductory portion of paragraph (a) of the administrative instructions listing approved packing materials and giving instructions for their use (B. E. P. Q. 571, as revised; 7 CFR, 1953 Supp., 319.37–16a (a)) pursuant to § 319.37–16 of the regulations supplemental to Nursery Stock, Plants, and Seeds Quarantine No. 37 (7 CFR, 1953 Supp., 319.37–16), under sections 1, 5, and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 154, 159, 162). The proposal outlined an alternative procedure for the importation of certain nursery stock and other plants, in addition to the procedure presently authorized.

In response to the invitation for comments contained in the notice, a large number of communications have been received with information and arguments, some in support of, and some in protest against, the proposal. Due consideration has been given to all relevant matters submitted. As a result of the study of this material and a further review of the information available in the United States Department of Agriculture, it has been concluded that there are uncertainties of pest hazards attending the use of the proposed new procedure which presently cannot be satisfactorily resolved. Accordingly, the proposal is not being put into effect and is hereby withdrawn.

Done at Washington, D. C., this 23rd day of February 1955.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 55–1759; Filed, Feb. 28, 1955; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 3]

[Docket No. 11250; FCC 55–245]

CLASS B FM BROADCAST STATIONS

ORDER AMENDING REVISED TENTATIVE ALLOCATION PLAN

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of February 1955;

The Commission having under consideration a proposal to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations; and

It appearing that notice of proposed rule making (FCC 55–28) setting forth the above amendment was issued by the Commission on January 14, 1955, and was duly published in the FEDERAL REGISTER (20 F. R. 462), which notice provided that interested parties might file statements or briefs with respect to the said amendment on or before February 11, 1955; and

It further appearing that only one comment was filed, which comment favored adoption of the proposed reallocation;

It further appearing that the immediate adoption of the proposed reallocation would facilitate consideration of a pending application requesting a Class B assignment in Chambersburg, Pennsylvania;

It further appearing that authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended:

It is ordered, That effective immediately, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is amended as follows in respect to the three following cities:

General area	Channels	
	Delete	Add
Chambersburg, Pa.		236
Winchester, Va.	236	248
Harrisburg, Pa.	235	

Released: February 24, 1955.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55–1770; Filed, Feb. 28, 1955; 8:51 a. m.]

[47 CFR Part 3]

[Docket No. 11237]

LOW-POWER TELEVISION BROADCAST STATIONS

NOTICE OF EXTENSION OF TIME FOR FILING COMMENTS

1. On December 17, 1954, the Commission issued a notice of proposed rule making (FCC 54–1542) in the above-entitled proceeding which specified that comments should be filed on or before February 25, 1955, with reply comments due 15 days thereafter.

2. On February 23, 1955, Radio-Electronics-Television Manufacturers Association (RETMA) filed a request for extension of time in which to file comments to March 14, 1955. RETMA states that the request for further time is necessary in order that its Special Satellite Television Committee may complete the preparation of its comments. It is noted that the Special Committee has held numerous meetings since its formation last May and has devoted intensive effort to the preparation of comments in this proceeding since the issuance of the Commission's notice. It is explained, however, that the comments cannot be completed in time for filing by February 25, 1955.

3. The Commission is of the view that an extension of time for the filing of comments in the above-entitled proceeding would serve the public interest, convenience, and necessity. We believe, however, that the time for filing comments in the proceeding should be extended to April 1, 1955.

4. In view of the foregoing: *It is ordered*, That the date for filing comments in the above-entitled proceeding is extended to April 1, 1955; and the date for filing Replies to such Comments is extended to April 18, 1955.

Adopted: February 23, 1955.

Released: February 24, 1955.

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

[F. R. Doc. 55–1771; Filed, Feb. 28, 1955; 8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

SECURITIES EXEMPTED FROM REGISTRATION

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Commission has under consideration a proposed amendment of its § 240.12a–5 (Rule X-12A–5) (17 CFR 240.12a–5) under the Securities Exchange Act of 1934 and a proposal to adopt a form for notices given by securities exchanges under that rule. This action would be taken under the Securities Exchange Act of 1934, particularly sections 3 (a) (12), 12 and 23 (a) thereof.

Rule X-12A–5 provides a conditional temporary exemption from registration for certain classes of securities, comprising generally, securities which the holders of other securities already admitted to trading on an exchange have become entitled to acquire in substitution for, or in addition to, the original security, as in the case of mergers, consolidations, reorganization plans, etc. The rule also provides an exemption from registration for trading in such securities on a when-issued basis before they are issued.

When Rule X-12A–5 was last amended on January 28, 1954, no specific temporary exemption was provided for transactions on a when-issued basis in additional amounts of a class of security already admitted to trading, as in the case of securities to be issued as a stock dividend or to effect a stock split. The proposed amendment is intended to provide specifically for this, and to recast and clarify the rule in other respects.

It is also proposed to adopt a form to be known as Form 26, for use by the exchanges to notify the Commission of action to admit any security to trading under Rule X-12A–5.. This would replace the present general requirement that in such a case the exchange furnish to the Commission a written notice containing specified information. The form would require essentially the same information as is now called for but use of a standardized form of notice should reduce correspondence and other paper work both for the exchanges and for the Commission. Paragraph (d) of Rule X-12A–5 would be amended to provide for the use of this form, and to also provide that no such notice is necessary with respect to the admission, or proposed admission, to trading of additional amounts of a class already admitted to trading as in the case of a stock dividend or stock split.

Paragraphs (b), (c) and (e) of the section would remain unchanged.

The text of paragraphs (a) and (d) of Rule X-12A–5, as proposed to be amended, is as follows:

§ 240.12a–5 *Temporary exemption of substituted or additional securities.* (a) (1) Subject to the conditions of subparagraph (2) of this paragraph, whenever the holders of a security admitted to trading on a national securities exchange (hereinafter called the original security) obtain the right, by operation of law or otherwise, to acquire another or substitute security of the same or another issuer, or an additional amount of the original security, then:

(i) All or any part of the class of such other or substituted security shall be temporarily exempted from the operation of section 12 (a) to the extent necessary to render lawful transactions therein on an issued or "when-issued" basis on any national securities exchange on which the original, the other or the substituted security is lawfully admitted to trading; and

(ii) The additional amount of the original security shall be temporarily exempted from the operation of section 12 (a) to the extent necessary to render lawful transactions therein on a "when-issued" basis on any national securities exchange on which the original security is lawfully admitted to trading.

(2) The exemptions provided by subparagraph (1) of this paragraph shall be available only if the following conditions are met:

(i) A registration statement is in effect under the Securities Act of 1933 to the extent required as to the security which is the subject of such exemption, or the terms of any applicable exemption from registration under such act have been complied with, if required;

(ii) Any stockholder approval necessary to the issuance of the security which is the subject of the exemption, has been obtained; and

(iii) All other necessary official action, other than the filing or recording of charter amendments or other documents with the appropriate State authorities, has been taken to authorize and assure the issuance of the security which is the subject of such exemption.

* * * * *

(d) The Exchange shall file with the Commission a notification on Form 26 [1] promptly after taking action to admit any security to trading under this section: *Provided, however,* That no notification need be filed under this section concerning the admission or proposed admission to trading of additional amounts of a class of security admitted to trading on such exchange.

All interested persons are invited to submit views and comments on the above-mentioned proposal in writing to the Securities and Exchange Commission, Washington 25, D. C., on or before March 15, 1955. Views or comments will be available for public inspection unless in any case a person requests that his comments shall not be made public.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

FEBRUARY 18, 1955.

[F. R. Doc. 55–1731; Filed, Feb. 28, 1955; 8:46 a. m.]

[1] Copy of Form 26 filed as part of the original document.

NOTICES

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

CACHE VALLEY LIVESTOCK AUCTION CO. ET AL.

NOTICE RELATIVE TO POSTED STOCKYARDS

Pursuant to the authority vested in me under the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), on the respective dates specified below, it was ascertained by me that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act and were therefore subject to the act, and notice was given to the owners and to the public by posting notice at the stockyards as required by section 302.

Name of Stockyard and Date of Posting

IDAHO

Cache Valley Livestock Auction Company, Preston; January 7, 1955.

Hayes Sales Yard, Nampa; January 14, 1955.

Meridian Sales Yard, Meridian; January 14, 1955.

NEBRASKA

Albion Sale Pavilion, Albion; February 4, 1955.

Elgin Livestock Commission Company, Elgin; February 3, 1955.

West Point Sales Company, West Point; February 2, 1955.

OKLAHOMA

Roy Akard Livestock Commission Company, Idabel; January 13, 1955.

UTAH

Delta Livestock Auction Co., Delta; January 28, 1955.

Richfield Auction Co., Richfield; January 27, 1955.

Salina Auction Co., Salina; January 28, 1955.

Uinta Sales Barn, Roosevelt; January 29, 1955.

Utah Valley Auction Co., Springville; January 27, 1955.

Done at Washington, D. C., this 23d of February 1955.

[SEAL] H. E. REED,
Director, Livestock Division, Agricultural Marketing Service.

[F. R. Doc. 55-1757; Filed, Feb. 28, 1955; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 10911, 10959; FCC 55M-168]

PHIL BIRD AND LAWTON BROADCASTING CO., INC.

ORDER CONTINUING HEARING

In re applications of Phil Bird, Lawton, Oklahoma, Docket No. 10911, File No. BP-9018; Lawton Broadcasting Company, Inc., Lawton, Oklahoma, Docket No. 10959, File No. BP-8840; for construction permits.

On the Examiner's own motion; *It is ordered,* This 21st day of February 1955, that the hearing now scheduled for February 23, 1955, in the above-entitled proceeding, is continued indefinitely.

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

[F. R. Doc. 55-1764; Filed, Feb. 28, 1955; 8:51 a. m.]

[Docket Nos. 10968, 10969, 10970; FCC 55M-166]

GREAT LAKES TELEVISION, INC., ET AL.

ORDER CONTINUING HEARING

In re applications of Great Lakes Television, Inc., Buffalo, New York, Docket No. 10968, File No. BPCT-1812; Leon Wyszatycki, d/b as Greater Erie Broadcasting Company, Buffalo, New York, Docket No. 10969, File No. BPCT-1827; WKBW-TV, Inc., Buffalo, New York, Docket No. 10970, File No. BPCT-1841; for construction permits for new television stations.

Upon the oral request of all applicants and the Broadcast Bureau offering no objection:

It is ordered, This 18th day of February 1955, that the further hearing in this proceeding now scheduled for March 1 is continued to March 30, 1955, at 10:00 a. m. in Washington, D. C.

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

[F. R. Doc. 55-1765; Filed, Feb. 28, 1955; 8:51 a. m.]

[Docket Nos. 11054, 11055, 11056; FCC 55M-175]

ABRAHAM KLEIN ET AL.

ORDER SCHEDULING 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 the above-entitled proceeding;

It appearing that the hearing herein was continued without date on August 10, 1954, pending action by the Commission on a petition for severance filed by Aircall, Inc.; that said petition was denied by the Commission's order of February 11, 1955; and that the hearing should be rescheduled and a prehearing conference should be held:

It is ordered, This 23d day of February, that the hearing herein is rescheduled for March 23, 1955, at 10:00 a. m.;

It is further ordered, That all parties, or their attorneys, are directed to appear for a prehearing conference, pursuant to the provisions of § 1.813 of the Commission's rules, at the Commission's offices in Washington, D. C., at 10:00 a. m., March 7, 1955.

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

[F. R. Doc. 55-1766; Filed, Feb. 28, 1955; 8:51 a. m.]

[Docket No. 11146; FCC 55M-173]

BLACKHAWK BROADCASTING CO., INC. (WSDR)

ORDER SCHEDULING HEARING

In re application of Blackhawk Broadcasting Company, Inc. (WSDR), Sterling, Illinois, Docket No. 11146; File No. BP-9258; for construction permit.

The Commission having under consideration the above-entitled proceeding;

It is ordered, This 23d day of February 1955, that all parties, or their attorneys, are directed to appear for a further prehearing conference, pursuant to the provisions of § 1.841 of the Commission's rules, at the Commission's offices in Washington, D. C., at 10:00 a. m., March 21, 1955.

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

[F. R. Doc. 55-1767; Filed, Feb. 28, 1955; 8:51 a. m.]

[Docket No. 11251; FCC 55M-172]

SOUTHWESTERN BROADCASTING CO. OF MISSISSIPPI (WAPF)

ORDER SCHEDULING HEARING

In re application of Albert Mack Smith, Phillip Dean Brady and Louis Alford, a partnership, d/b as Southwestern Broadcasting Company of Mississippi (WAPF), McComb, Mississippi, Docket No. 11251, File No. BP-9480; for construction permit.

The Commission having under consideration the above-entitled proceeding;

It is ordered, This 23d day of February 1955, that all parties, or their attorneys, are directed to appear for a pre-hearing conference pursuant to the provisions of § 1.813 of the Commission's rules, at the Commission's offices in Washington, D. C., at 10:00 a. m., March 4, 1955.

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

[F. R. Doc. 55-1768; Filed, Feb. 28, 1955; 8:51 a. m.]

[Docket No. 11290; FCC 55-243]

IOWA STATE COLLEGE OF AGRICULTURE AND MECHANIC ARTS (WOI)

ORDER DESIGNATING APPLICATIONS FOR HEARING ON STATED ISSUES

In re application of Iowa State College of Agriculture and Mechanic Arts (WOI), Ames, Iowa, Docket No. 11290, File No. BSSA-276; for special service authorization to operate additional hours from 6:00 a. m. to local sunrise c. s. t., with 1 kw.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of February 1955;

The Commission having under consideration the above-entitled application filed on October 13, 1952, by Iowa State College of Agriculture and Mechanic Arts, licensee of Station WOI, Ames, Iowa (640 kc, 5 kw, daytime only) requesting a Special Service Authorization to operate Station WOI additional hours from 6:00 a. m., c. s. t., to local sunrise, c. s. t., with 1 kw;

It appearing that in a letter dated December 2, 1954, the Commission advised Station WOI that the Commission, on the basis of the facts before it, was unable to determine whether a grant of the above-entitled application would be in the public interest and that, therefore, the Commission proposed to designate the matter for hearing upon issues set forth in the letter; and

It further appearing that in a reply dated January 3, 1955, Station WOI stated that the subject application is identical to previous WOI SSA applications granted by the Commission; that the Commission in granting the previous WOI SSA applications did so only upon finding that the grants would be in the public interest; that the subject application presents no new facts which should alter the Commission's prior determinations that the requested WOI pre-sunrise operation would be in the public interest; and that therefore the Commission should grant the subject application without hearing; and

It further appearing that the Commission, on November 29, 1944, January 24, 1947, and October 27, 1949, granted similar WOI SSA applications (File Nos. BSSA-79, BSSA-155 and BSSA-221 respectively); that each grant was for a limited period; that each grant was entitled "Special Temporary Service Authorization" and was granted upon the express condition that the authorization could be terminated by the Commission at any time without advance notice or hearing if in the Commission's discretion the need for such action arose; and that each of the three authorizations expressly stated that nothing in the authorization could be construed as a finding by the Commission that the authorized operation would be in the public interest beyond the time period specified in the authorization; and

It further appearing that the subject application, File No. BSSA-276, for an extension of the then outstanding WOI SSA was filed on October 13, 1952; that pending action on this application the Commission, on its own motion, from time to time has continued the outstanding WOI SAA authorization permitting WOI to operate in the manner requested in the subject SSA application; that these extensions did not represent positive action on the subject application but merely extensions of the authorization that expired on November 1, 1952, pending Commission consideration of the subject application to extend the authorization beyond November 1, 1952; and

It further appearing that the Commission's previous determinations in finding the WOI pre-sunrise operation to be in the public interest do not dictate a mandatory conclusion that a grant of the subject WOI application for continued pre-sunrise operation would be in the public interest; and

It further appearing that Station KFI, Los Angeles, California (640 kc, 50 kw, unlimited time), is the dominant station on the frequency assigned to Station WOI and as such is licensed by the Commission for the purpose of rendering interference-free service over extensive areas day and night; and

It further appearing, that in a letter dated December 31, 1954, Station KFI requested the Commission to designate the above-entitled WOI SSA application for hearing on issues specified in the aforementioned Commission letter of December 2, 1954, and that Radio Station KFI be made a party to said hearing; and

It further appearing, that upon consideration of the above-entitled application and the above-described letters from Stations WOI and KFI and in view of the fact that the Commission, on the basis of the facts before it, is of the opinion that a hearing on the above-entitled application is necessary to determine whether or not the outstanding WOI SSA authorization should be continued:

It is ordered, That the above-entitled application for Special Service Authorization is designated for hearing to be held at the offices of the Commission in Washington, D. C., on the 5th day of April 1955 at 10:00 a. m. on the following issues:

1. To determine the areas and populations which may be expected to receive primary service from the proposed pre-sunrise operation of WOI and the availability of other primary service to such areas and populations.

2. To determine the type and character of program service proposed to be rendered by the proposed pre-sunrise operation of WOI, whether the same general program service is being rendered by any other station or stations serving all or part of the area proposed to be served by WOI, and whether the proposed WOI program service would serve any special needs and requirements of the population and areas proposed to be served.

3. To determine whether the proposed pre-sunrise operation of WOI would involve objectionable interference with Station KFI, Los Angeles, California, and if so, the nature and extent thereof, the areas and populations affected thereby, the availability of other primary service to such areas and populations, and the nature and character of the program service now being rendered by Station KFI to such areas and populations.

4. To determine whether the public interest, convenience or necessity would be served by a grant of the above described WOI application for Special Service Authorization.

It is further ordered, That Earle C. Anthony, Inc., licensee of Station KFI, Los Angeles, California, and the Chief, Broadcast Bureau are made parties to the proceedings;

It is further ordered, That on the Commission's own motion, pending a final decision in the hearing ordered above on the above-entitled WOI SSA application, Iowa State College of Agriculture and Mechanical Arts is authorized to operate Station WOI additional hours from 6:00 a. m. to local sunrise CST with 1 kilowatt.

Released: February 24, 1955.

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

[F. R. Doc. 55-1769; Filed, Feb. 28, 1955; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-5387—G-5438, G-5440—G-5454, G-5456—G-5469, G-5478—G-5509, G-5511—G-5523, G-5525—G-5550]

GEORGE P. BLACK ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

FEBRUARY 17, 1955.

In the matters of George P. Black, Docket No. G-5387; F. G. Bish, Docket No. G-5388; Charles F. Moran, Docket No. G-5389; Hanlon Oil Company, Docket No. G-5390; Hanlon Oil Company, Docket No. G-5391; Weva Oil Corporation, Docket No. G-5392; Hanlon Oil Company, Docket No. G-5393; Carnegie Natural Gas Company, Docket No. G-5394; Carnegie Natural Gas Company, Docket No. G-5395; Conservation Oil and Gas Company, Docket No. G-5396; N. G. Busch, Docket No. G-5397; Spruce Oil & Gas Company, Docket No. G-5398; Alvy Oil and Gas Company, Docket No. G-5399; S. A. Smith, et al., Docket No. G-5400; T. N. & L. W. Tanzey, Docket No. G-5401; Smith Oil and Gas Company, Docket No. G-5402; P. J. McDonough, T. J. Garrity, et al., Docket No. G-5403; West Virginia Production Company, Docket No. G-5404; Schultz Oil Company, Docket No. G-5405; Ben L. Beall, et al., Docket No. G-5406; Ira J. Roberts, Docket No. G-5407; Miller Oil and Gas Company, Docket No. G-5408; Thomas J. Davis, Docket No. G-5409; Roberts Oil & Gas Company, Docket No. G-5410; West Virginia Production Company, Docket No. G-5411; H. F. Simonton, Docket No. G-5412; Prather Gas Company, Docket No. G-5413; French Creek Oil and Gas Company, Docket No. G-5414; West Virginia Production Company, Docket No. G-5415; C. E. Braden, et al., Docket No. G-5416; Wolf Pen Oil & Gas Co., Docket No. G-5417; J. J. Graham, Docket No. G-5418; E. R. & James Reed, Docket No. G-5419; E. A. Robertson, Docket No. G-5420; Empire

Oil Co., Partnership, Docket No. G–5421; Murphy Oil Co., Docket No. G–5422; Murphy Oil Co., Docket No. G–5423; Nellie M. Stinespring, Docket No. G–5424; Thursday Oil & Gas Co., Docket No. G–5425; Ethel S. Jones, Docket No. G–5426; Charles W. Britton and Company, Docket No. G–5427; Pond Fork Oil and Gas Company, Docket No. G–5428; Simers Oil & Gas Company, Docket No. G–5429; Lincoln Oil Company, Docket No. G–5430; F. G. Bish, Docket No. G–5431; Carnegie Natural Gas Company, Docket No. G–5432; Pond Fork Oil and Gas Company, Docket No. G–5433; Camp Oil and Gas Company, Docket No. G–5434; Cunningham Oil & Gas Company, Docket No. G–5435; Alva McCullough, et al., Docket No. G–5436; Diamond Oil and Gas Company, Docket No. G–5437; J. D. Foley, Docket No. G–5438; Marian F. Johnson, Docket No. G–5440; Marian F. Johnson, Docket No. G–5441; Garrett, Woodford, and Swadley, Docket No. G–5442; Mrs. Anna Huber, Docket No. G–5443; The Empire Gas Company, Docket No. G–5444; D. W. Cork, Docket No. G–5445; Commercial Coal & Coke Company, Docket No. G–5446; C. Ray & Harry E. Martin, Docket No. G–5447; C. F. Chrisman, et al., Docket No. G–5448; Carolyn E. Farr, Docket No. G–5449; Empire Oil Co., Partnership (N. L. Gribble & Carolyn E. Farr), Docket No. G–5450; Quaker State Oil Refining Corp., Docket No. G–5451; Ledford & Webster Flint, Docket No. G–5452; J. Moses Raad, Docket No. G–5453; Charles W. Louchery, Docket No. G–5454; Finch & Snider Oil & Gas Co., Docket No. G–5456; Marian F. Johnson, Docket No. G–5457; J. Moses Raad, Docket No. G–5458; Rocksdale Oil & Gas Co., Docket No. G–5459; Ohio Oil & Gas Co., Docket No. G–5460; J. Robert Hornor, Docket No. G–5461; O. B. Lawman & Archie M. Hall, Docket No. G–5462; Rocksdale Oil & Gas Co., Docket No. G–5463; J. Robert Hornor, Agent, Thomas J. Francis, et al., Docket No. G–5464; Cameron Oil & Gas Co., Docket No. G–5465; Ayers Oil & Gas Co., Docket No. G–5466; Tanzey Gas Co., Docket No. G–5467; E. W. Savage, Trustee, Docket No. G–5468; Z. N. Connolly, et al., Docket No. G–5469; N. M. Beardmore, Docket No. G–5478; Hanlon Oil Co., Docket No. G–5479; Hanlon Oil Co., Docket No. G–5480; A. F. Marple, Docket No. G–5481; H. F. Simonton, Docket No. G–5482; Thomas W. Hanley, et al., Docket No. G–5483; Earl Goodwin, et al., Docket No. G–5484; H. F. Simonton, Docket No. G–5485; Ottawa Gas Co., Docket No. G–5486; Joe Rubin, Docket No. G–5487; Powers Gas Co., Docket No. G–5488; Twin Cities Gas Co., Docket No. G–5489; Twin Cities Gas Co., Docket No. G–5490; Edwards Oil & Gas Co., Docket No. G–5491; Everett Starcher, et al., Docket No. G–5492; Twin Cities Gas Co., Docket No. G–5493; Tate & Gribble, a Partnership, Docket No. G–5494; Hunt & Adams, Docket No. G–5495; Ottawa Gas Co., Docket No. G–5496; E. C. Frederick, et al., Docket No. G–5497; West Union Oil & Gas Co., Docket No. G–5498; Twin Cities Gas Co., Docket No. G–5499; McHenry Oil & Gas Co., Docket No. G–5500; Pond Fork Oil & Gas Co., Docket No. G–5501; Fred & Ollie Stump Gas Company, Docket No. G–5502; Tate and Gribble, Partnership, Docket No. G–5503; E. L. Summers Gas Company, Docket No. G–5504; George Jackson, trading and doing business as Twin Cities Gas Company, Docket No. G–5505; Z. N. Connolly, et al., Docket No. G–5506; D. C. Mullenix, Agent, Docket No. G–5507; Boyd Wright, Docket No. G–5508; H. F. Simonton, Docket No. G–5509; C. C. Dodd, et al., Docket No. G–5511; Dodd and Duffield, Docket No. G–5512; Markle Oil and Gas Company, Docket No. G–5513; Everett Cain, Docket No. G–5514; Edmond Tate, Docket No. G–5515; Elmer Bush Gas Co., George W. Miller, et al., Docket No. G–5516; Thomas A. Clark, et al., Docket No. G–5517; Frank Morgan, et al., Docket No. G–5518; Jackson and Pilchard Oil and Gas Company, Docket No. G–5519; Racket Oil & Gas Company, Docket No. G–5520; Earl Goodwin, et al., Docket No. G–5521; Z. N. Connolly, et al., Docket No. G–5522; J. R. Bush Gas Company, George W. Miller, et al., Docket No. G–5523; Fogle and Hupp Gas Company, Docket No. G–5525; Ida Goff Gas Company, George W. Miller, et al., Docket No. G–5526; R. L. McCulty, et al., Docket No. G–5527; Dog Run Oil and Gas Company, Docket No. G–5528; Rich Oil and Gas Company, Docket No. G–5529; Morris Oil and Gas Company, Docket No. G–5530; Bush-Hall Gas Company, George W. Miller, et al., Docket No. G–5531; Scott Duffield, et al., Docket No. G–5532; Lockney Gas Company, Docket No. G–5533; Cunningham Oil and Gas Company, Docket No. G–5534; Julia W. Jackson, trading and doing business as Jackson Gas Company, Docket No. G–5535; Hickman Oil & Gas Company, Docket No. G–5536; George Jackson, trading and doing business as Twin Cities Gas Company, Docket No. G–5537; Fox Oil and Gas Company, Docket No. G–5538; Z. N. Connolly, et al., Docket No. G–5539; H. C. Buzzard Gas Company, C. H. Drake Gas Company, Docket No. G–5540; Hayhurst Gas Company, Docket No. G–5541; Scott Duffield, et al., Docket No. G–5542; Mid-Atlantic Oil and Gas Company, Docket No. G–5543; Carroll-Morris Lease, Docket No. G–5544; C. F. Engel Estate, C. F. Chrisman & Charles O. Engel, Executors, Docket No. G–5545; Z. N. Connolly, et al., Docket No. G–5546; Bowser Gas and Oil Company, Docket No. G–5547; Julia Jackson, trading and doing business as Jackson Gas Company, Docket No. G–5548; Carder Oil & Gas Co., Miller Heirs Oil & Gas Co., Cox Heirs Oil & Gas Co., Gregg Heirs Oil & Gas Co., Bollinger Oil & Gas Co., Docket No. G–5549; S. M. Criss lease, Docket No. G–5550.

The designated Applicants produce natural gas from the gas fields in West Virginia, and sell to Hope Natural Gas Company volumes of natural gas under contracts and at prices indicated in the applications filed herein pursuant to section 7 of the Natural Gas Act for certificates of public convenience and necessity authorizing each Applicant to render the service described, subject to the jurisdiction of the Commission, as more fully represented in each application on file with the Commission and open for public inspection. The pertinent data reflected in each application is set forth as follows:

Docket No.	Date filed	Gas field	Contract date	Gas price (cents per Mcf)
G–5387	Nov. 23, 1954	Union District, Richie County	Jan. 1, 1954	20
G–5388	do	Clay District, Harrison County	Oct. 3, 1952	20
G–5389	do	Three Lick District, Lewis County and Salt Lake District in Braxton County.	Sept. 10, 1934	20
G–5390	do	Murphy District, Richie County	June 29, 1916	20
G–5391	do	Murphy and Grant Districts, Richie County	July 19, 1917	20
G–5392	do	Spring Creek District, Creston, W. Va	Jan. 8, 1919	20
G–5393	do	McKim and Lafayette Districts, Pleasants County and Clay District, Richie County.	June 6, 1919	19 or 20
G–5394	do	Freeman's Creek District, Lewis County; DeKalb District, Gilmer County; Sherman District, Calhoun County.	Oct. 24, 1921	20
G–5395	do	Center District, Gilmer County	do	20
G–5396	do	DeKalb District, Gilmer County	Jan. 4, 1922	20
G–5397	do	Burning Springs District, Wirt County	Nov. 1, 1946	20
G–5398	do	Murphy District, Ritchie County	Nov. 30, 1921	20
G–5399	do	McElroy District, Tyler County	Dec. 9, 1922	20
G–5400	do	Union District, Ritchie County	Nov. 15, 1922	20
G–5401	do	Murphy District, Ritchie County	Dec. 8, 1922	20
G–5402	do	do	Dec. 15, 1922	20
G–5403	do	Doddridge County	Jan. 16, 1923	20
G–5404	do	DeKalb and Center Districts, Gilmer County	Apr. 27, 1923	20
G–5405	do	Grant District, Ritchie County	Dec. 26, 1922	20
G–5406	do	Murphy District, Ritchie County	June 19, 1923	20
G–5407	do	do	May 15, 1923	20
G–5408	do	do	July 25, 1923	20
G–5409	do	do	Aug. 16, 1923	20
G–5410	do	DeKalb District, Gilmer County	Feb. 23, 1924	20
G–5411	do	Center District, Gilmer County	Apr. 10, 1924	20
G–5412	do	McKim District, Pleasants County	June 13, 1924	20
G–5413	do	Ritchie County	Feb. 13, 1932	20
G–5414	do	Meade District, Upshur County	Feb. 4, 1925	20
G–5415	do	Center District, Gilmer County	Feb. 9, 1925	20
G–5416	do	Murphy District, Ritchie County	Mar. 17, 1925	20
G–5417	do	Union District, Ritchie County	June 6, 1925	20
G–5418	do	Central District, Doddridge County	June 11, 1925	20
G–5419	do	Clay, Clay County	Aug. 18, 1927	20
G–5420	do	Union District, Clay County	Nov. 24, 1925	20
G–5421	do	New Milton District, Doddridge County	Apr. 30, 1929	20
G–5422	do	Doddridge-Tyler Counties	do	20
G–5423	do	New Milton District, Doddridge County	June 25, 1934	20
G–5424	do	Southwest District, Doddridge County	Jan. 19, 1925	20
G–5425	do	Murphy District, Ritchie County	Feb. 2, 1926	20
G–5426	do	Grant District, Ritchie County	Sept. 30, 1926	20
G–5427	do	Center District, Gilmer County	Oct. 21, 1926	20
G–5428	do	Boone County	Mar. 15, 1927	20
G–5429	do	De Kalb District, Gilmer County	Apr. 8, 1927	20
G–5430	do	Ritchie County	Aug. 19, 1927	20
G–5431	do	Harrison County	Aug. 1, 1926	20
G–5432	do	Center District, Gilmer County	Sept. 26, 1927	20

Docket No.	Date filed	Gas field	Contract date	Gas price (cents per Mcf)
G-5433	Nov. 23, 1954	Crook District, Boone County	Oct. 19, 1927	20
G-5434	do	Harrisville Field, Union District, Ritchie County	Oct. 25, 1927	20
G-5435	do	Murphy District, Ritchie County	Jan. 12, 1928	20
G-5436	do	Troy District, Gilmer County	Oct. 18, 1928	20
G-5437	do	Ritchie County	Oct. 27, 1928	20
G-5438	do	Doddridge County	Dec. 12, 1928	20
G-5440	do	Sardis District, Harrison County	Nov. 5, 1924	20
G-5441	do	Ten Mile District, Harrison County	Sept. 30, 1924	20
G-5442	do	do	June 1, 1925	20
G-5443	do	Sardis District, Harrison County	Sept. 30, 1926	20
G-5444	do	Grant District, Harrison County	Mar. 3, 1910	20
G-5445	do	Harrison County	Jan. 1, 1942	20 and 25
G-5446	do	Elk and Ten Mile Districts, Harrison County	June 30, 1951	20
G-5447	do	Greenbrier District, Doddridge County	Nov. 14, 1928	20
G-5448	do	Otter District, Braxton County	Aug. 29, 1929	20
G-5449	do	Morgan's Run Field, Grant District, Doddridge County	Oct. 26, 1928	20
G-5450	do	Dent's Run Field, Grant District, Doddridge County	do	20
G-5451	do	McClellen District, Doddridge County	Apr. 1, 1932	20
G-5452	do	Ten Mile District, Harrison County	Sept. 22, 1921	20
G-5453	do	do	Apr. 5, 1929	20
G-5454	do	do	Apr. 6, 1932	20
G-5456	do	do	June 7, 1930	20
G-5457	do	Sardis District, Harrison County	Oct. 1, 1925	15
G-5458	do	Ten Mile District, Harrison County	May 1, 1932	20
G-5459	do	Lee District, Calhoun County	Apr. 8, 1930	20
G-5460	do	Meade District, Tyler County	Sept. 12, 1930	20
G-5461	do	Union District, Harrison County	Oct. 30, 1912	20
G-5462	do	Davisson Run, Clark District, Harrison County	Oct. 25, 1912	20
G-5463	do	Center District, Calhoun County	Oct. 24, 1933	20
G-5464	do	Coal District, Harrison County	Jan. 29, 1925	20
G-5465	do	Crook District, Boone County	Nov. 7, 1933	20
G-5466	do	Murphy District, Ritchie County	June 24, 1935	20
G-5467	do	do	Nov. 7, 1935	20
G-5468	do	DeKalb District, Gilmer County	Jan. 14, 1936	20
G-5469	do	Sherman District, Calhoun County	May 30, 1936	20
G-5478	do	Salt Lick District, Braxton County	June 1, 1952	20
G-5479	do	Grant District, Ritchie County	Apr. 13, 1937	20
G-5480	do	do	Feb. 12, 1937	20
G-5481	do	do	Oct. 11, 1937	20
G-5482	do	McKim District, Pleasants County	Oct. 29, 1937	20
G-5483	do	Mannington District, Marion County	July 16, 1940	20
G-5484	do	Murphy District, Ritchie County	Oct. 18, 1940	20
G-5485	do	Lafayette District, Pleasants County	Nov. 4, 1940	20
G-5486	do	Washington District, Boone County	Dec. 17, 1940	20
G-5487	do	Ravenswood District, Jackson County	Jan. 23, 1941	20
G-5488	do	Holly District, Braxton County	Feb. 12, 1941	20
G-5489	do	Sherman District, Calhoun County	Aug. 1, 1941	20
G-5490	do	Center District, Calhoun County	Aug. 6, 1941	20
G-5491	do	Glenville District, Gilmer County	Sept. 10, 1941	20
G-5492	do	Troy District, Gilmer County	Oct. 5, 1941	20
G-5493	do	Glenville District, Gilmer County	Dec. 9, 1941	20
G-5494	do	Doddridge County	Dec. 6, 1941	20
G-5495	do	Calhoun County	Apr. 9, 1942	20
G-5496	do	Washington District, Boone County	Apr. 28, 1942	20
G-5497	do	Murphy District, Ritchie County	July 3, 1942	20
G-5498	do	West Union District, Doddridge County	May 7, 1943	20
G-5499	do	Sherman District, Calhoun County	June 29, 1943	20
G-5500	do	Troy District, Gilmer County	Sept. 28, 1943	20
G-5501	do	Birch & Otter Districts, Braxton County	Oct. 22, 1943	20
G-5502	do	Sherman District, Calhoun County	Apr. 11, 1944	20
G-5503	do	Doddridge County	July 7, 1944	20
G-5504	do	Ritchie County	Oct. 10, 1944	20
G-5505	do	Sherman District	Nov. 16, 1944	20
G-5506	do	do	Feb. 19, 1945	20
G-5507	do	Ritchie County	Feb. 27, 1945	20
G-5508	do	Clay District, Ritchie County	June 28, 1947	20
G-5509	do	Lafayette District, Pleasants County	July 19, 1947	20
G-5511	do	Braxton County	Oct. 10, 1947	20
G-5512	do	Washington District, Calhoun County	Oct. 13, 1947	20
G-5513	do	Ritchie County	Nov. 6, 1947	20
G-5514	do	Cain and Holliday, Sheridan District, Calhoun County	Nov. 3, 1947	20
G-5515	do	Morgans Run, Grant District, Doddridge County	Nov. 10, 1947	20
G-5516	do	Sinking Creek, Troy District, Gilmer County	Dec. 20, 1947	20
G-5517	do	Union District, Clay County	Feb. 4, 1948	20
G-5518	do	Center District, Gilmer County	Feb. 18, 1948	20
G-5519	do	Grant District, Ritchie County	Mar. 17, 1948	20
G-5520	do	Ritchie County	May 1, 1948	20
G-5521	do	Center District, Gilmer County	June 14, 1948	20
G-5522	do	Sherman District, Calhoun County	Sept. 1, 1948	20
G-5523	do	Sinking Creek, DeKalb District, Gilmer County	Sept. 23, 1948	20
G-5525	do	Sherman District, Calhoun County	Oct. 30, 1948	20
G-5526	do	Sinking Creek, Gilmer County	Feb. 14, 1949	20
G-5527	do	Lee District, Calhoun County	Feb. 21, 1949	20
G-5528	do	Murphy District, Ritchie County	Feb. 28, 1949	20
G-5529	do	Ritchie County	June 13, 1949	20
G-5530	do	Center District, Gilmer County	Aug. 11, 1949	20
G-5531	do	Sinking Creek, DeKalb District, Gilmer County	Aug. 11, 1949	20
G-5532	do	Washington District, Calhoun County	Aug. 26, 1949	20
G-5533	do	Sherman District, Calhoun County	Mar. 16, 1945	20
G-5534	do	Ritchie County	Apr. 18, 1945	20
G-5535	do	Glenville District, Gilmer County	May 9, 1945	20
G-5536	do	Union District, Ritchie County	Sept. 17, 1945	20
G-5537	do	Sherman District, Calhoun County	Oct. 2, 1945	20
G-5538	do	McKim District, Pleasants County	do	20
G-5539	do	Center District, Calhoun County	Jan. 31, 1946	20
G-5540	do	Murphy District, Ritchie County	Mar. 20, 1946	20
G-5541	do	Center District, Calhoun County	Feb. 21, 1946	20
G-5542	do	Washington District, Calhoun County	Mar. 14, 1946	20
G-5543	do	Grant District, Ritchie County	Mar. 22, 1946	20
G-5544	do	Sheridan District, Calhoun County	May 14, 1946	20
G-5545	do	Otter District, Braxton County	May 16, 1946	20
G-5546	do	Sherman District, Calhoun County	June 14, 1946	20
G-5547	do	Center District, Calhoun County	July 1, 1946	20
G-5548	do	Sherman District, Calhoun County	Aug. 2, 1946	20
G-5549	do	Murphy District, Ritchie County	Oct. 14, 1946	20
G-5550	do	Sheridan District, Calhoun County	Oct. 1, 1946	20

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 31, 1955, at 9:30 a. m. e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) 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 March 21, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-1691; Filed, Feb. 28, 1955; 8:45 a. m.]

[Docket Nos. G-2573, G-6876]

TEXAS EASTERN TRANSMISSION CORP. AND HARTSVILLE GAS CO.

NOTICE OF APPLICATION AND ORDER CONSOLIDATING PROCEEDINGS AND PERMITTING INTERVENTION

Take notice that Hartsville Gas Company (Hartsville) filed, on November 30, 1954, an application in Docket No. G-6876, 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 facilities proposed to be constructed by Hartsville and to sell natural gas to it for distribution in the Town of Hartsville and the surrounding territory,

On January 27, 1955, Hartsville filed a petition for leave to intervene in In the Matter of Texas Eastern Transmission Corporation, Docket No. G-2573. By its intervention Hartsville seeks the same relief as requested in its application in Docket No. G-6876.

Also on January 27, 1955, the City of Lafayette, Tennessee (Lafayette), filed a petition for leave to intervene in Docket No. G-2573, requesting an order directing Texas Eastern to establish physical connection of its transportation facilities with the proposed facilities of Lafayette and to sell natural gas to it for distribution in Lafayette and its environs.

The Presiding Examiner permitted Hartsville and Lafayette to participate in the hearings held in Docket No. G–2573 on January 31 and February 1, 2, 3, 4, and 7, 1955, on a provisional basis pending issuance of an order by the Commission upon the petitions for intervention.

The Commission finds:

(1) It is reasonable in the public interest and in aid of administration of the Natural Gas Act to consolidate the application of Hartsville in Docket No. G–6876 with the proceedings in Docket No. G–2573.

(2) Although the petitions of Hartsville and Lafayette were not filed within the time required by the Commission's rules of practice and procedure, good cause exists to permit the late filing.

(3) The participation of the above-named petitioners in Docket No. G–2573 may be in the public interest.

(4) Evidence relating to the subject matter of Docket No. G–6876 was presented in the hearing sessions in Docket No. G–2573, et al., and all parties to that proceeding were given full opportunity to cross examine the witnesses of Hartsville Gas Company.

The Commission orders:

(A) The proceedings in In the Matter of Hartsville Gas Company, Docket No. G–6876, are hereby consolidated with the proceedings in In the Matter of Texas Eastern Transmission Corporation, Docket No. G–2573.

(B) The above-named petitioners, Hartsville Gas Company and the City of Lafayette, Tennessee, are hereby permitted to become interveners in Docket No. G–2573, subject to the rules and regulations of the Commission: *Provided, however,* That the participation as interveners shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions for leave to intervene: *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Any person other than the parties to the proceedings in Docket No. G–2573 who desires to intervene or protest in Docket No. G–6876 shall do so not later than February 28, 1955.

Adopted: February 16, 1955.

Issued: February 23, 1955.

By the Commission.

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

[F. R. Doc. 55–1735; Filed, Feb. 28, 1955; 8:47 a. m.]

[Docket Nos. G–2674—G–2676; G–3141, G–3596, G–3608, G–3614, G–3648, G–3691, G–3704, G–3705, G–3707, G–3782, G–3792, G–3900, G–4409]

MARTIN J. WHELAN GAS CO. ET AL.

NOTICE OF FINDINGS AND ORDERS

FEBRUARY 23, 1955.

In the matters of The Martin J. Whelan Gas Company, Docket No. G–2674; The Mike Whelan Gas Company, Docket No. G–2675; The J. A. Whelan Gas Company, Docket No. G–2676; Mary Abbott, Docket No. G–3141; Dan J. Harrison, Jr., Docket No. G–3596; Jones-O'Brien, Inc., and R. J. O'Brien, Operator, Docket No. G–3608; Dorothy Hewit Blakeney, et al., Docket No. G–3614; The Texas Company, et al., Docket No. G–3648; Hill & Wright Oil & Gas Company, Docket No. G–3691; Boggs Lease, Maxwell Busch, Agent, Docket No. G–3704; Clifton Loudin Oil & Gas Company, Docket No. G–3705; Edmond Tate, Docket No. G–3707; General Crude Oil Company, Docket No. G–3782; Harry Carver, Docket No. G–3792; Fremont Petroleum Company, Docket No. G–3900; H. L. Hawkins, et al., Docket No. G–4409.

Notice is hereby given that on January 28, 1955, the Federal Power Commission issued its findings and orders adopted January 26, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

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

[F. R. Doc. 55–1746; Filed, Feb. 28, 1955; 8:48 a. m.]

[Docket Nos. G–3764, G–3770—G–3772, G–4509, G–4840]

J. R. OSBORNE ET AL.

NOTICE OF FINDINGS AND ORDERS

FEBRUARY 23, 1955.

In the matters of J. R. Osborne & D. C. Osborne, Docket No. G–3764; Osborne Development Company, Docket No. G–3770; Turtle Lick Gas Company, Docket No. G–3771; Ray & Osborne, Docket No. G–3772; Robert Mosbacher, Docket No. G–4509; Arkansas-Louisiana Gas Company, Docket No. G–4840.

Notice is hereby given that on January 31, 1955, the Federal Power Commission issued its findings and orders adopted January 26, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

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

[F. R. Doc. 55–1747; Filed, Feb. 28, 1955; 8:48 a. m.]

[Docket No. E–6599]

EKLUTNA PROJECT, ALASKA

NOTICE OF ORDER CONFIRMING AND APPROVING RATES ON INTERIM PERIOD

FEBRUARY 23, 1955.

Notice is hereby iven that on January 28, 1955, the Federal Power Commission issued its order adopted January 26, 1955, confirming and approving rates for an interim period in the above-entitled matter.

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

[F. R. Doc. 55–1748; Filed, Feb. 28, 1955; 8:48 a. m.]

[Docket No. G–1556]

SOUTHERN CALIFORNIA GAS CO.

NOTICE OF ORDER TERMINATING PROCEEDING

FEBRUARY 23, 1955.

Notice is hereby given that on January 31, 1955, the Federal Power Commission issued its order adopted January 26, 1955, terminating proceeding in the above-entitled matter.

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

[F. R. Doc. 55–1749; Filed, Feb. 28, 1955; 8:48 a. m.]

[Docket No. G–2506]

PANHANDLE EASTERN PIPE LINE CO.

NOTICE OF ORDER MAKING PROPOSED TARIFF SHEETS EFFECTIVE UPON FILING OF UNDERTAKING TO ASSURE REFUND OF EXCESS CHARGES

FEBURARY 23, 1955.

Notice is hereby given that on January 28, 1955, the Federal Power Commission issued its order adopted January 26, 1955, making effective proposed tariff sheets upon filing of undertaking to assure refund of excess charges, and suspending other tariff sheets in the above-entitled matter.

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

[F. R. Doc. 55–1750; Filed, Feb. 28, 1955; 8:48 a. m.]

[Docket Nos. G–2576, G–2720]

COLORADO INTERSTATE GAS CO. AND COLORADO-WYOMING GAS CO.

NOTICE OF ORDERS MAKING PROPOSED TARIFF SHEETS EFFECTIVE UPON FILING OF UNDERTAKING TO ASSURE REFUND OF EXCESS CHARGES

FEBRUARY 23, 1955.

Notice is hereby given that on January 27, 1955, the Federal Power Commission issued its orders adopted January 26, 1955, making effective proposed tariff sheets upon filing of undertaking to assure refund of excess charges in the above-entitled matters.

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

[F. R. Doc. 55–1751; Filed, Feb. 28, 1955; 8:48 a. m.]

[Docket No. G–6864]

SYRACUSE HOME UTILITIES CO.

NOTICE OF FINDINGS AND ORDER

FEBRUARY 23, 1955.

Notice is hereby given that on January 31, 1955, the Federal Power Commission issued its order adopted January 28, 1955, directing physical connection of facilities and sale of natural gas in the above-entitled matter.

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

[F. R. Doc. 55–1752; Filed, Feb. 28, 1955; 8:49 a. m.]

[Docket No. ID-1239]

ALFRED M. SHOOK, III

NOTICE OF ORDER DENYING APPLICANT TO HOLD CERTAIN POSITIONS

FEBRUARY 23, 1955.

Notice is hereby given that on January 27, 1955, the Federal Power Commission issued its order adopted January 26, 1955, denying applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-1753; Filed, Feb. 28, 1955; 8:49 a. m.]

[Project No. 2082]

CALIFORNIA OREGON POWER CO.

NOTICE OF ORDER EXTENDING TIME FOR ACCEPTANCE OF LICENSE

FEBRUARY 23, 1955.

Notice is hereby given that on January 28, 1955, the Federal Power Commission issued its order adopted January 26, 1955, extending time to January 28, 1956, for acceptance of license in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-1754; Filed, Feb. 28, 1955; 8:49 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL ADMINISTRATIVE OFFICER, REGION I (NEW YORK)

REDELEGATION OF AUTHORITY TO EXECUTE CERTAIN CONTRACTS AND AGREEMENTS WITH RESPECT TO ADMINISTRATIVE MATTERS

The Regional Administrative Officer, Region I (New York), Housing and Home Finance Agency, is hereby authorized to take the following action with respect to administrative matters within such Region:

Execute contracts and agreements for supplies, equipment, and services (except purely personal services) necessary for the operation and maintenance of field offices in the Region.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C., 1952, ed. 1701c; Delegation of Authority, effective August 14, 1953, 18 F. R. 6812 (October 28, 1953); continuation of delegation effective December 23, 1954, 19 F. R. 9305)

Effective as of the 14th day of February 1955.

[SEAL] CLARENCE R. KNICKMAN,
Regional Administrator, Region I.

[F. R. Doc. 55-1738; Filed, Feb. 28, 1955; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-913]

BOND INVESTMENT TRUST OF AMERICA

NOTICE OF FILING OF APPLICATION FOR EXEMPTION OF PURCHASE OF SECURITIES FROM UNDERWRITING SYNDICATE

FEBRUARY 24, 1955.

Notice is hereby given that The Bond Investment Trust of America ("Applicant"), a registered open-end, diversified investment company, has filed an application pursuant to section 10 (f) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 10 (f) the proposed purchase by Applicant of not exceeding $300,000 principal amount of __ percent Convertible Debentures due March 1, 1975 (Subordinate) of Union Oil Company of California ("Union") to be publicly offered in the near future.

The application recites that James H. Orr, one of the three trustees of the Applicant, and John R. Macomber, one of three advisory board members of the Applicant, are directors of The First Boston Corporation which expects to be among a group of underwriters of $60,000,000 of said Debentures.

It is represented that the trustees of the Applicant have individually authorized the purchase by Applicant of not exceeding $300,000 principal amount of said Debentures, subject to market conditions at the time of the offering. Such purchase, it is stated, is to be made from underwriters or members of the selling group, if any, other than The First Boston Corporation.

Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting of selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is a person of which a director or member of an advisory board of such registered investment company is an affiliated person, unless the Commission by order upon application grants an exemption therefrom. Under the act a director by definition includes a trustee. Since Orr and Macomber are by definition under the act affiliated persons of The First Boston Corporation, the application states that the proposed transaction is subject to the provisions of section 10 (f) of the act.

Union, a California corporation, is engaged in practically all phases of the oil industry. Its principal operating area is on the Pacific Coast and in Montana. Certain operations are carried on in other states and foreign countries, including the production of crude oil or natural gas in Louisiana, Texas, Wyoming, New Mexico, Oklahoma and Canada.

The application states that if the Applicant were to purchase the entire $300,000 principal amount of said Debentures authorized by its trustees, it would acquire 0.5 percent of the total offering, and assuming a price of $103, the purchase would represent an investment of $309,000 or approximately 4.5 percent of the total assets of the Applicant as of February 11, 1955.

Applicant presently owns 4,522 shares of common stock of Union and represents that in the event the instant application is granted and the Debentures purchased, simultaneously with or prior to such purchase, shares of common stock of Union would be disposed of in an amount sufficient to make certain that at the time of the purchase of said Debentures Applicant would not have more than 5 percent of its assets invested in securities of Union. Under the provisions of its Declaration of Trust the Applicant is prohibited from making any purchase which would cause more than 5 percent of the market value of its assets to be invested in the securities of an issuer.

It is represented that the proposed purchase by the Applicant is consistent with its stated investment policies. Applicant considers it desirable to be in a position to purchase said Debentures on the original offering in order to have reasonable assurance of being able to obtain a substantial block of Debentures and to avoid the possibility of a higher price after the underwriting syndicate has been dissolved.

Notice is further given that any interested person may, not later than March 7, 1955, at 4:00 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-1791; Filed, Feb. 28, 1955; 8:58 a. m.]

[File No. 812-914]

COLONIAL FUND, INC.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION OF PURCHASE OF SECURITIES FROM UNDERWRITING SYNDICATE

FEBRUARY 24, 1955.

Notice is hereby given that The Colonial Fund, Inc. ("Colonial"), a registered open-end, diversified investment company, has filed an application pursuant to section 10 (f) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 10 (f) the proposed purchase by Colonial of not exceeding $250,000 principal amount of __ Percent Convertible Debentures due

March 1, 1975 (Subordinate), of Union Oil Company of California ("Union") to be publicly offered in the near future.

The application recites that James H. Orr and Stedman Buttrick, two of the seven directors of Colonial, are a director of The First Boston Corporation and a partner of Estabrook & Co., respectively, investment banking firms. It is also stated that Russell Robb, one of the three members of the Advisory Board of the Applicant, is a director of Stone & Webster, Inc., of which Stone & Webster Securities Corporation, an investment banking firm, is a subsidiary. Applicant states it is informed that The First Boston Corporation and Stone & Webster Securities Corporation expect to be among a group of underwriters of $60,000,000 principal amount of said Debentures. The Applicant states it has no knowledge as to whether Estabrook & Co. will be included in the underwriting group or in any selling group which may be formed.

It is represented that the Directors of Colonial have individually authorized the purchase by Colonial of not exceeding $250,000 principal amount of said Debentures subject to market conditions of the time of offering, such purchase to be made from underwriters or members of the selling group, if any, other than The First Boston Corporation or Stone & Webster Securities Corporation (or Estabrook & Co., if it should be a principal underwriter or member of any selling group).

Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is a person of which a director or member of an advisory board is an affiliated person, unless the Commission by order upon application grants an exemption therefrom. The application states that since Orr and Robb are affiliated persons of investment banking organizations which are part of the principal underwriting group of said Debentures, the proposed transaction is subject to the provisions of section 10 (f).

Union, a California corporation, is engaged in practically all phases of the oil industry. Its principal operating area is on the Pacific Coast and in Montana. Certain operations are carried on in other states and foreign countries, including the production of crude oil or natural gas in Louisiana, Texas, Wyoming, New Mexico, Oklahoma and Canada.

The application states that if Colonial were to purchase the entire $250,000 principal amount of said Debentures authorized by its directors, it would acquire 0.4 percent of the total offering, and assuming a price of 103 the purchase would represent an investment of $257,500 or approximately 1.1 percent of the total assets of Colonial as of February 17, 1955.

It is represented that the proposed purchase by Colonial is consistent with its stated investment policies. Colonial considers it desirable to be in a position to purchase said Debentures on the original offering in order to have reasonable assurance of being able to obtain a substantial block of the Debentures and to avoid the possibility of a higher price after the underwriting syndicate has been dissolved.

Notice is further given that any interested person may, not later than March 7, 1955, at 4:00 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

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

[F. R. Doc. 55-1792; Filed, Feb. 28, 1955; 8:58 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 30299]

MERCHANDISE IN MIXED CARLOADS FROM TRUNK-LINE AND NEW ENGLAND TO SOUTHERN POINTS

APPLICATION FOR RELIEF

FEBRUARY 24, 1955.

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: C. W. Boin, Agent, for carriers parties to schedule listed below.

Commodities involved: Merchandise in mixed carloads.

From: Specified points in trunk-line and New England territories.

To: Specified points in southern territory.

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

Schedules filed containing proposed rates: C. W. Boin, Agent, I. C. C. No. A-1030, supp. 5.

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. 55-1741; Filed, Feb. 28, 1955; 8:47 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order No. 44-A]

TEXAS, OKLAHOMA & EASTERN RAILROAD CO.

REROUTING OR DIVERSION OF TRAFFIC

Upon further consideration of Taylor's I. C. C. Order No. 44 and good cause appearing therefor:

It is ordered, That:

(a) Taylor's I. C. C. Order No. 44 be, and it is hereby vacated and set aside.

(b) *Effective date.* This order shall become effective at 8:00 a. m., February 23, 1955.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., February 21, 1955.

INTERSTATE COMMERCE COMMISSION, CHARLES W. TAYLOR, *Agent.*

[F. R. Doc. 55-1743; Filed, Feb. 28, 1955; 8:47 a. m.]

[4th Sec. Application 30300]

COFFEE FROM HOUSTON, TEX. AND NEW ORLEANS, LA., TO MADISON, MILWAUKEE AND RACINE, WIS.

APPLICATION FOR RELIEF

FEBRUARY 24, 1955.

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 schedules listed below.

Commodities involved: Green coffee, carloads (accorded transit privileges at Omaha, Nebr., or Kansas City, Mo.).

From: Houston, Texas and New Orleans, La.

To: Madison, Milwaukee, and Racine, Wis.

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

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C.

4018, supp. 32; W. P. Emerson, Jr., Agent, I. C. C. 416, supp. 86.

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. 55-1742; Filed, Feb. 28, 1955; 8:47 a. m.]

[4th Sec. Application 30298]

MASONRY AND MORTAR CEMENT FROM GROVE, MD., AND STEPHENS CITY, VA., TO THE SOUTH

APPLICATION FOR RELIEF

FEBRUARY 24, 1955.

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: C. W. Boin, Agent, for carriers parties to schedule listed below.

Commodities involved: Masonry cement, mortar cement, and dry building mortar, carloads.

From: Grove, Md., and Stephens City, Va.

To: Points in southern territory.

Grounds for relief: Rail competition, circuity, market competition, to maintain grouping, and rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. W. Boin, Agent, I. C. C. No. A-1037, supp. 3.

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. D. Doc. 55-1740; Filed, Feb. 28, 1955; 8:47 a. m.]