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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

GENERAL SERVICES ADMINISTRATION

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (9) is added to § 6.333 as set out below.

§ 6.333 *General Services Administration*—(a) *Office of the Administrator.* * * *

(9) The Assistant Administrator for Program Planning and Coordination.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-5298; Filed, June 29, 1956; 11:39 a. m.]

PART 32—INCENTIVE AWARDS

INTERDEPARTMENTAL AWARDS

Sections 32.402 and 32.403 of Subpart D are amended as set out below.

§ 32.402 *Referrals to other departments.* (a) The head of each department shall establish procedures to insure that an employee contribution originating within his department which may have application in other departments will be made available to those other departments. However, the case will first be given consideration for application throughout the originating department.

(b) If the responsibility for decision on an employee contribution clearly rests with only one department, it should be referred by the headquarters of the originating department directly to the other department. A copy of the reply to the originating department that a contribution has been adopted or rejected will be forwarded to the Commission.

(c) If the responsibility for decision on a contribution does not clearly rest with only one department, it should be forwarded to the Commission for appropriate referral. Specific information as to the activities in other departments where it is believed the employee contribution can be used shall accompany the incentive awards file.

§ 32.403 *Awards by benefiting departments other than the employing department.* (a) When the head of a department approves an employee contribution which originated in another department he shall report the fact to the office which referred the contribution (the Commission or the originating department) at the earliest practicable date, and in no event later than six months after it has been referred, except upon prior approval of the Commission. The report of the head of the adopting department shall state the estimated first year net savings, if any, and the intangible benefits, if any, and the award that will be granted under applicable Commission and department regulations. However, when one or more other departments will benefit significantly from the employee contribution so that they should provide a portion of the award, the case will be referred to the Civil Service Commission after adoption with recommendations for additional award consideration.

(b) In cases referred direct from one department to another, the adopting department will make arrangements with the originating department for transfer of funds necessary for any cash award.

(c) In other cases the Commission, on the basis of departmental reports, will determine the total interdepartmental first year net monetary savings and total awards for intangible benefits resulting from the employee contribution, and recommend to each benefiting department (other than the employing department) its proportionate share of the award.

(d) Within 30 days after date of receipt of the Commission's recommendation, the head of each benefiting department shall notify the Commission, in writing, as to the action the department will take on the Commission's recommendation.

(Sec. 302, 68 Stat. 1112; 5 U. S. C. 2121)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-5206; Filed, June 29, 1956; 8:49 a. m.]

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FEDERAL REGISTER

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PART 485—SOIL BANK

SUBPART—ACREAGE RESERVE PROGRAM

Correction

In Federal Register Document 56-4912, published at page 4379 of the issue for Friday, June 22, 1956, the following changes are made in Appendix 1:

1. Under the heading Corn, Pennsylvania, Ferry County should read "Perry".

2. Under the heading Wheat, Nebraska, Harland County should read "Harlan" and Merrill County should read "Morrill".

3. Under the heading Wheat, Pennsylvania, the base unit rate for Westmoreland County should read "1.27".

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 28–COTTON STANDARDS

SUBPART A—REGULATIONS

REVISED REGULATIONS FOR COTTON LINTERS

On May 24, 1956, a notice of proposed rule making was published in the FEDERAL REGISTER (21 F. R. 3458) regarding proposed revised regulations for licensed classifiers and for the classification of United States Cotton Linters (7 CFR Part 28) pursuant to authority contained in section 6 of the United States Cotton Standards Act, as amended (42 Stat. 1517; 7 U. S. C. 54).

After consideration of all relevant matters presented pursuant to the notice, said regulations are hereby amended as follows, effective July 1, 1957:

1. Section 28.83 is amended to read:

§ 28.83 *Copies of class certificates; retention period; other requirements.* Each licensed classifier shall keep for a period of 1 year in a place accessible to interested persons a copy of each certificate issued by him as a licensed classifier under this subpart. The Administrator may require that a copy of each such certificate be forwarded to a supervising office of the Agricultural Marketing Service immediately after issuance of the certificate.

2. Section 28.85 is amended to read:

§ 28.85 *Supervisory samples and reports.* The Administrator may require each licensed classifier to submit supervisory samples to a supervising office of the Agricultural Marketing Service in accordance with instructions furnished to licensed classifiers from time to time. The Administrator may also require each licensed classifier to make reports on forms furnished by the Agricultural Marketing Service, or otherwise, bearing upon his activities as such licensed classifier.

3. Section 28.92 (h) is amended to read:

(h) A statement in accordance with the facts in each case, either (1) that the classifier has drawn the samples upon which his classification is based, or (2) that the samples were submitted to the classifier by another person, in which case the name and address of such person shall be stated.

4. Section 28.96 is amended to read:

§ 28.96 *Inconsistent classifications.* In the event any licensed classifier or any employee of the Department of Agriculture shall find that any cotton has been inconsistently classified by two or more licensed classifiers, he shall thereupon bring the matter to the attention of the supervising office of the Agricultural Marketing Service, which shall review all the facts obtainable and, if possible, determine the classification of the cotton. The supervising office may examine or requisition such samples of the cotton in question as may be in the hands of such licensed classifiers, or, in the discretion of the supervising officer may request that new samples be drawn, if obtainable. In the event samples are not obtainable, the supervising officer may, if in his judgment sufficient facts are available, decide which of the inconsistent classifications shall be sustained. The records of the licensed cotton classifiers concerned shall be corrected to show the findings of the supervising office.

5. Sections 28.147, 28.148, and 28.149 are re-numbered §§ 28.160, 28.161, and 28.162 respectively.

6. The center heading immediately preceding § 28.136 and §§ 28.136 through 28.146 are deleted and the following substituted therefor:

UNITED STATES COTTON LINTERS

§ 28.136 *Applicability of other sections of regulations.* Insofar as applicable, and not inconsistent with §§ 28.136 to 28.152, the provisions of the foregoing subpart relating to cotton shall likewise apply to cotton linters.

§ 28.137 *Boards of cotton linters examiners.* There shall be located at Washington, D. C., and, when necessary in the opinion of the Administrator, at any other point that he shall designate for the purpose, a board of cotton linters examiners. The members of all such boards and the chairman of each shall be designated by the Administrator.

§ 28.138 *Classification and comparison; requests; memorandums and certificates.* For each lot or mark of linters which the applicant desires classified or compared separately he shall make a separate written request specifying which of the following forms of service is desired. Only one request within a 30-day period shall be made by the same owner for the classification or comparison of the same linters, except a request for a review determination. If the applicant desires that the samples be returned to him, at his expense, he must indicate this in the request for classification or comparison. If the return of samples is not requested they shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

(a) *Form A determination.* The classification or comparison of samples of linters that have been freshly drawn by a licensed classifier and submitted direct to a Board of Cotton Linters Examiners without classification or further handling by such classifier. Such classification shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.146. Composite samples composed of portions of linters drawn from more than one bale are not eligible for Form A determinations.

(b) *Form C determination.* The classification of bales of linters sampled under the supervision of an employee of the Department of Agriculture. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.146. Such certificate when it has been reviewed in accordance with § 28.146 shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54).

(c) *Form D determination.* The classification or comparison of samples submitted for other than Form A or Form C determinations. Such classification or comparison shall be evidenced by a Form D memorandum which shall not be subject to review.

§ 28.139 *Filing of requests.* All requests for classification or comparison leading to Form A memoranda, Form D memoranda, or Form C certificates shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., unless otherwise directed by the Administrator.

§ 28.140 *Samples; weight; drawing.* Each sample submitted to a Board of Cotton Linters Examiners shall weigh not less than 8 ounces; shall be wrapped separately; shall contain a coupon or tag showing the bale number or identity of bale from which drawn; and shall be drawn in the following manner:

(a) *Condenser system linters.* Separate portions shall be drawn from three different places in either head of the bale so as to provide as representative sample as possible, each portion to be approximately 6 by 8 inches in size. All portions of the bale sample shall be placed in a single paper sack or wrapper together with an identifying tag stub or other identification. The portions together shall constitute the sample representing one bale.

(b) *Flue and beater system linters.* A sample of not less than 8 ounces, consisting of equal portions drawn from two sides of a bale, or from two shoulders of a bale, shall be drawn.

§ 28.141 *Inspection of bales for special conditions.* A licensed classifier drawing samples for submission to a Board of Cotton Linters Examiners for Form A classification or comparison shall inspect each bale and shall specify on his sampler's certificate accompanying the samples any conditions not fully indicated by the samples.

§ 28.142 *Submission of samples.* All samples submitted to a Board of Cotton Linters Examiners for classification or comparison under this subpart shall be delivered or sent to the secretary of the board with all transportation charges incident thereto prepaid. All samples submitted by a licensed linters classifier for Form A classification must have been freshly drawn by such classifier, must be submitted direct to the board without classification or further handling, and must be accompanied by a sampler's certificate. Such certificate shall be on a form furnished by the Agricultural Marketing Service for this purpose.

§ 28.143 *Method of classification.* The classification of all cotton linters samples shall be in accordance with the official cotton linters standards of the United States and §§ 28.143 to 28.145. The grade, staple, and character of each sample shall be determined and designated separately, together with any special conditions of the sample or bale. The official staple guides (§ 28.152) shall be used in the practical determination of the staple classification of cotton linters.

§ 28.144 *Samples falling between grades or staples.* In classification, a sample which is determined to be between two adjacent grades or between two adjacent staples shall be assigned the lower of the two grades or two staples.

§ 28.145 *Terms defined; linters classification.* For the purposes of classification of any cotton linters or comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Grade.* The term grade means the color and trash in cotton linters.

(b) *Staple.* The staple normal for each grade as illustrated in grades 1 through 7 (§§ 28.201 to 28.207) and represented in official staple guides numbered 1 through 7 respectively shall be designated as staples 1, 2, 3, 4, 5, 6, and 7, respectively.

(c) *Character.* The term character means the relative harshness of linters. In linters classification, character shall be described as follows: Soft (symbol S); Average (symbol A); Harsh (symbol H); or Extra Harsh (symbol EH).

(d) *Prime linters.* Prime linters are cotton linters which are equivalent in grade to the official grade standards and do not show evidence of excess trash, physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards.

(e) *Off grade linters.* Cotton linters which show evidence of physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards shall be designated as "Off Grade," and no specific grade assigned.

(f) *Excess trash.* Cotton linters that contain more trash than is represented in the grades described in §§ 28.201 to 28.208 shall be assigned that grade to which it is equal in color and further described by the term "Excess Trash." Such linters shall not be considered as prime linters.

(g) *Compound grades.* Cotton linters which in grade show a variation equal to that shown in any 2 or 3 adjacent grades of those described in §§ 28.201 to 28.208 shall be designated by the compound name of such grades.

(h) *Compound staples.* Cotton linters which in staple show a variation equal to that shown in any 2 or 3 adjacent staples of those listed in § 28.209 shall be designated by the compound name of such staples.

(i) *Mixed packed grades.* Cotton linters which in grade show a variation greater than that shown in any 3 adjacent grades of those described in §§ 28.201 to 28.208 shall be designated as "Mixed Packed" for grade on classification certificates and memoranda and the grades constituting the mixture shown.

(j) *Mixed-packed staples.* Cotton linters which in staple show a variation greater than that shown in any 3 adjacent staples of those listed in § 28.209 shall be designated as "Mixed Packed" for staple on classification certificates and memoranda and the staples constituting the mixture shown.

(k) *Weak staple.* Cotton linters in which the strength of staple is below that normally found in linters of otherwise comparable staple shall be designated by the term "Weak" and no specific staple assigned.

(l) *Below 7 staple.* Cotton linters which in staple is below that illustrated in Grade 7 (§ 28.207) shall be designated as "Below 7" staple.

(m) *False packed linters.* Linters in a bale (1) containing substances entirely foreign to linters; (2) containing damaged linters in the interior with or without any indication of such damage upon the exterior; (3) composed of good linters upon the exterior and decidedly inferior linters in the interior, in such manner as not to be detected by customary examination; or (4) containing motes, sweepings, or hull fiber worked into the bale.

(n) *Repacked linters.* Linters that are composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or linters in a bale which is composed of linters from two or more smaller bales or parts of bales.

(o) *Water-packed linters.* Linters in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

§ 28.146 *Reviews.* A review of any Form A or Form C determination may be requested by the owner of the linters from which the sample was drawn, or his agent, within 30 days after the issuance of the original memorandum or certificate. Such request shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., and shall be accompanied by the original classification memorandum or certificate if it is in the possession of the applicant. The application shall state the reason for failure to submit such document. Form D determinations are not subject to review.

(a) *Form A and Form C Reviews.* Redrawn samples will be required except in cases where the original samples have remained in the custody of the Board of Cotton Linters Examiners. When redrawn samples are necessary, they shall be drawn and submitted in accordance with the applicable provisions of §§ 28.138, 28.140, 28.141, and 28.142. A Form A memorandum or Form C certificate, as applicable, appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The review classification memorandum shall supersede the original classification memorandum.

(b) *Review of licensed classifier's certificate.* In case a review is desired of the classification of any linters represented in a valid certificate issued by a licensed linters classifier, the holder of such certificate shall surrender the same, together with samples of the linters involved, to the Board of Cotton Linters Examiners and receive in its stead a Form D memorandum signed by the chairman of such board. Such Form D memorandum shall be appropriately marked to show it represents a review of a licensed classifier's certificate. The Form D memorandum issued in lieu of the licensed classifier's certificate shall not be subject to further review. The provisions of this paragraph do not prohibit the drawing of new samples and filing of a request with the Board of Cotton Linters Examiners leading to a Form

A or Form D memorandum or a Form C certificate.

§ 28.147 *Licensed classifiers.* Subject to the applicable terms and conditions of §§ 28.76 to 28.96, any person may, upon presentation of evidence of competency, be licensed to grade or classify linters, and to certificate the grade or class thereof in accordance with the official cotton linters standards of the United States.

(a) *Class certificates; form; mailing to board.* Each class certificate issued by a licensed linters classifier under this subpart shall be on a form furnished by the Department of Agriculture. A copy of each certificate shall be mailed to the Board of Cotton Linters Examiners at Washington, D. C., within 3 days after issuance.

(b) *Supervisory samples.* Some samples from each lot or mark of samples on which a licensed linters classifier issues a certificate under this subpart shall be sent to the Board of Cotton Linters Examiners for supervisory purposes. Such supervisory samples shall be submitted to the board in accordance with instructions furnished licensees by the Department of Agriculture from time to time.

§ 28.148 *Fees and costs; classification; reviews; other.* The fee for the classification, comparison, or review of linters with respect to grade, staple, and character, or any of these qualities, shall be at the rate of 20 cents for each bale or sample involved. The provisions of §§ 28.118 to 28.135 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

§ 28.149 *Fees and costs; supervision of sampling.* For the supervision of sampling of bales of linters leading to a Form C certificate pursuant to § 28.138 (b), the person making the request for classification shall pay, in addition to the classification fee prescribed in § 28.148, the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department of Agriculture, by the Department employee supervising the sampling.

§ 28.150 *Fee; licenses; renewals.* The fee for the examination of an applicant for a license to classify linters shall be $10. No additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. The fee for each renewal of such license shall be $5.

§ 28.151 *Cost of practical forms; period effective.* Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.115, and upon prepayment of the costs thereof: *Provided,* That no practical form of any of the official cotton linters standards of the United States shall be considered as representing any of said standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The costs of the official standards shall be at the rate of $5 each, f. o. b., Washington, D. C., for shipments within the continental United States, and $6.50 each, delivered to destination, for shipments outside the continental United States.

§ 28.152 *Official staple guides.* An actual sample of linters illustrating the staples as embraced in each of the grades 1 through 7 (§§ 28.201 to 28.207) shall be made available, to the extent that facilities permit, to purchasers of practical forms of the official standards, at the rate of $1 each, f. o. b., Washington, D. C., for shipments within the continental United States, and $1.50 each, delivered to destination, for shipments outside the continental United States.

The revised regulations will implement the revised official linters standards which become effective July 1, 1956. The Department announced in the notice of proposed rule making (21 F. R. 3458) the intention of making the revised regulations effective July 1, 1956. The provisions of the revised regulations were discussed at a meeting with the linters industry in Washington on June 4 and 5 and later at public meetings held at central points throughout the United States. The regulations will impose no hardship on affected persons and in order to be of maximum benefit should be made effective on July 1, 1956. For these reasons good cause exists for making the revised regulations effective on July 1, 1956.

(Sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 4, 42 Stat. 1517; 7 U. S. C. 54)

Done at Washington, D. C., this 27th day of June 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 56-5197; Filed, June 29, 1956; 8:48 a. m.]

PART 28—COTTON STANDARDS

SUBPART B—STANDARDS

REVISION OF OFFICIAL STAPLE STANDARDS FOR UNITED STATES COTTON LINTERS

On June 19, 1956, a notice of proposed rule making was published in the FEDERAL REGISTER (21 F. R. 4293) concerning a proposed revision of the official staple standards for United States cotton linters (7 CFR 28.209, as amended), pursuant to authority contained in the United States Cotton Standards Act, as amended (42 Stat. 1517; 7 U. S. C. 51 et seq.)

After consideration of all relevant matters presented pursuant to said notice, the regulations governing cotton linters standards (7 CFR Part 28) are hereby amended, effective July 1, 1957, as follows:

1. Change the undesignated center head immediately preceding § 28.201 (as amended 20 F. R. 4615) to read "Official Cotton Linters Standards Of The United States For Grade."

2. Delete § 28.209 (as amended 20 F. R. 4617) and substitute the following:

OFFICIAL COTTON LINTERS STANDARDS OF UNITED STATES FOR STAPLE

§ 28.215 *Staple 1.* Staple 1 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 1, effective July 1, 1957."

§ 28.216 *Staple 2.* Staple 2 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 2, effective July 1, 1957."

§ 28.217 *Staple 3.* Staple 3 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 3, effective July 1, 1957."

§ 28.218 *Staple 4.* Staple 4 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 4, effective July 1, 1957."

§ 28.219 *Staple 5.* Staple 5 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 5, effective July 1, 1957."

§ 28.220 *Staple 6.* Staple 6 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 6, effective July 1, 1957."

§ 28.221 *Staple 7.* Staple 7 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 7, effective July 1, 1957."

4. Add new § 28.222 to read as follows:

§ 28.222 *Below 7 Staple.* Cotton linters which in staple is below staple 7 will be designated as "Below 7" staple.

(Sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518; 7 U. S. C. 56)

Done at Washington, D. C. this 27th day of June 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 56-5249; Filed, June 29, 1956; 8:55 a. m.]

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR SHELLED RUNNER TYPE PEANUTS [1]

On April 18, 1956, a notice of proposed rule making was published in the FEDERAL REGISTER (21 F. R. 2529) regarding a proposed revision of United States Standards for Shelled Runner Type Peanuts.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Shelled Runner Type Peanuts are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

GRADES

Sec.
51.2710 U. S. No. 1 Runner.
51.2711 U. S. Runner Splits.
51.2712 U. S. No. 2 Runner.

APPLICATION OF TOLERANCES

51.2713 Application of tolerances.

DEFINITIONS

51.2714 Similar varietal characteristics.
51.2715 Whole.
51.2716 Split.
51.2717 Broken.
51.2718 Foreign material.
51.2719 Unshelled.
51.2720 Minor defects.
51.2721 Damage.

AUTHORITY: §§ 51.2710 to 51.2721 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

GRADES

§ 51.2710 *U. S. No. 1 Runner.* "U. S. No. 1 Runner" consists of shelled Runner type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having 16/64 x 3/4 inch openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 1 percent for other varieties of peanuts;

(2) 2 percent for sound peanuts which are split or broken;

(3) 1.5 percent for damaged or unshelled peanuts;

(4) 0.5 percent for minor defects: *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 2 percent for sound whole peanuts which will pass through the prescribed screen.

§ 51.2711 *U. S. Runner Splits.* "U. S. Runner Splits" consists of shelled Runner type peanut kernels of similar varietal characteristics which are split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having 17/64 inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material;

(4) 2 percent for sound portions of peanuts which will pass through the prescribed screen; and,

(5) 4 percent for sound whole peanuts.

§ 51.2712 *U. S. No. 2 Runner.* "U. S. No. 2 Runner" consists of shelled Runner type peanut kernels of similar varietal characteristics which may be split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having 17/64 inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2.5 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material; and,

(4) 6 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

APPLICATION OF TOLERANCES

§ 51.2713 *Application of tolerances.* The tolerances provided in these standards are on a lot basis and shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the peanuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

DEFINITIONS

§ 51.2714 *Similar varietal characteristics.* "Similar varietal characteristics" means that the peanut kernels in the lot are not of distinctly different varieties. For example, Spanish type shall not be mixed with Runners.

§ 51.2715 *Whole.* "Whole" means that the peanut kernel is not split or broken.

§ 51.2716 *Split.* "Split" means the separated half of a peanut kernel.

§ 51.2717 *Broken.* "Broken" means that more than one-fourth of the peanut kernel is broken off.

§ 51.2718 *Foreign material.* "Foreign material" means pieces or loose particles of any substance other than peanut kernels or skins.

§ 51.2719 *Unshelled.* "Unshelled" means a peanut kernel with part or all of the hull (shell) attached.

§ 51.2720 *Minor defects.* "Minor defects" means that the peanut kernel is not damaged but is affected by one or more of the following:

(a) Skin discoloration which is dark brown, dark gray, dark blue or black and covers more than one-fourth of the surface;

(b) Flesh discoloration which is darker than a light yellow color or consists of more than as light yellow pitting of the flesh;

(c) Sprout extending more than one-eighth of an inch from the tip of the kernel; and,

(d) Dirt when the surface of the kernel is distinctly dirty, and its appearance is materially affected.

§ 51.2721 *Damage.* "Damage" means that the peanut kernel is affected by one or more of the following:

(a) Rancidity or decay;

(b) Mold;

(c) Insects, worm cuts, web or frass;

(d) Freezing injury causing hard, translucent or discolored flesh; and

(e) Dirt when the surface of the kernel is heavily smeared, thickly flecked or coated with dirt, seriously affecting its appearance.

The United States Standards for Shelled Runner Type Peanuts contained in this subpart shall become effective 30 days after publication hereof in the FEDERAL REGISTER, and will thereupon supersede the United States Standards for Shelled Runner Peanuts which have been in effect since September 3, 1946.

Dated: June 27, 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Service.

[F. R. Doc. 56-5190; Filed, June 29, 1956; 8:46 a. m.]

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR SHELLED SPANISH TYPE PEANUTS [1]

On April 18, 1956, a notice of proposed rule making was published in the FEDERAL REGISTER (21 F. R. 2530) regarding a proposed revision of United States Standards for Shelled Spanish Type Peanuts.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Shelled Spanish Type Peanuts are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

GRADES

Sec.
51.2730 U. S. No. 1 Spanish.
51.2731 U. S. Spanish Splits.
51.2732 U. S. No. 2 Spanish.

APPLICATION OF TOLERANCES

51.2733 Application of tolerances.

DEFINITIONS

51.2734 Similar varietal characteristics.
51.2735 Whole.
51.2736 Split.
51.2737 Broken.
51.2738 Foreign material.
51.2739 Unshelled.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

AUTHORITY: §§ 51.2730 to 51.2741 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

GRADES

§ 51.2730 *U. S. No. 1 Spanish.* "U. S. No. 1 Spanish" consists of shelled Spanish type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having $\frac{15}{64} \times \frac{3}{4}$ inch openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 1 percent for other varieties of peanuts;

(2) 2 percent for sound peanuts which are split or broken;

(3) 0.75 percent for damaged or unshelled peanuts;

(4) 0.5 percent for minor defects: *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 2 percent for sound whole peanuts which will pass through the prescribed screen.

§ 51.2731 *U. S. Spanish Splits.* "U. S. Spanish Splits" consists of shelled Spanish type peanut kernels of similar varietal characteristics which are split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having $\frac{16}{64}$ inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material;

(4) 2 percent for sound portions of peanuts which will pass through the prescribed screen; and,

(5) 4 percent for sound whole kernels.

§ 51.2732 *U. S. No. 2 Spanish.* "U. S. No. 2 Spanish" consists of shelled Spanish type peanut kernels of similar varietal characteristics which may be split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having $\frac{16}{64}$ inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2.5 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material; and,

(4) 6 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

APPLICATION OF TOLERANCES

§ 51.2733 *Application of tolerances.* The tolerances provided in these standards are on a lot basis and shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the peanuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

DEFINITIONS

§ 51.2734 *Similar varietal characteristics.* "Similar varietal characteristics" means that the peanut kernels in the lot are not of distinctly different varieties. For example, Runner type shall not be mixed with Spanish, and White Spanish shall not be mixed with Red Spanish.

§ 51.2735. *Whole.* "Whole" means that the peanut kernel is not split or broken.

§ 51.2736 *Split.* "Split" means the separated half of a peanut kernel.

§ 51.2737 *Broken.* "Broken" means that more than one-fourth of the peanut kernel is broken off.

§ 51.2738 *Foreign material.* "Foreign material" means pieces or loose particles of any substance other than peanut kernels or skins.

§ 51.2739 *Unshelled.* "Unshelled" means a peanut kernel with part or all of the hull (shell) attached.

§ 51.2740 *Minor defects.* "Minor defects" means that the peanut kernel is not damaged but is affected by one or more of the following:

(a) Skin discoloration which is dark brown, dark gray, dark blue or black and covers more than one-fourth of the surface;

(b) Flesh discoloration which is darker than a light yellow color or consists of more than a slight yellow pitting of the flesh;

(c) Sprout extending more than one-eighth of an inch from the tip of the kernel; and,

(d) Dirt when the surface of the kernel is distinctly dirty, and its appearance is materially affected.

§ 51.2741 *Damage.* "Damage" means that the peanut kernel is affected by one or more of the following:

(a) Rancidity or decay;

(b) Mold;

(c) Insects, worm cuts, web or frass;

(d) Freezing injury causing hard, translucent or discolored flesh; and,

(e) Dirt when the surface of the kernel is heavily smeared, thickly flecked or coated with dirt, seriously affecting its appearance.

The United States Standards for Shelled Spanish Type Peanuts contained in this subpart shall become effective 30 days after publication hereof in the FEDERAL REGISTER, and will thereupon supersede the United States Standards for Shelled White Spanish Peanuts which have been in effect since September 1, 1939.

Dated: June 27, 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator, Marketing Services.

[F. R. Doc. 56-5191; Filed, June 29, 1956; 8:47 a. m.]

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR SHELLED VIRGINIA TYPE PEANUTS [1]

On April 18, 1956, a notice of proposed rule making was published in the FEDERAL REGISTER (21 F. R. 2531) regarding a proposed revision of United States Standards for Shelled Virginia Type Peanuts.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Shelled Virginia Type Peanuts are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

AUTHORITY: §§ 51.2750 to 51.2763 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

GRADES

§ 51.2750 *U. S. Extra Large Virginia.* "U. S. Extra Large Virginia" consists of shelled Virginia type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having $\frac{20}{64} \times 1$ inch openings. Unless otherwise specified, the peanuts in any lot shall average not more than 512 per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 0.75 percent for other varieties of peanuts;

(2) 2 percent for sound peanuts which are split or broken;

(3) 1 percent for damaged or unshelled peanuts;

(4) 0.75 percent for minor defects: *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 2 percent for sound whole peanuts which will pass through the prescribed screen.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 51.2751 *U. S. Medium Virginia.* "U. S. Medium Virginia" consists of shelled Virginia type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having 15/64 x 1 inch openings. Unless otherwise specified, the peanuts in any lot shall average not more than 640 per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 1 percent for other varieties of peanuts;

(2) 2 percent for sound peanuts which are split or broken;

(3) 1.25 percent for damaged or unshelled peanuts;

(4) 0.75 percent for minor defects; *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 2 percent for sound whole peanuts which will pass through the prescribed screen.

§ 51.2752 *U. S. No. 1 Virginia.* "U. S. No. 1 Virginia" consists of shelled Virginia type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having 15/64 x 1 inch openings. Unless otherwise specified, the peanuts in any lot shall average not more than 800 per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 1 percent for other varieties of peanuts;

(2) 2 percent for sound peanuts which are split or broken;

(3) 1.25 percent for damaged or unshelled peanuts;

(4) 0.75 percent for minor defects: *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 2 percent for sound whole peanuts which will pass through the prescribed screen.

§ 51.2753 *U. S. Virginia Splits.* "U. S. Virginia Splits" consists of shelled Virginia type peanut kernels of similar varietal characteristics which are free from foreign material, damage and minor defects, and which will not pass through a screen having 20/64 inch round openings. Not less than 90 percent, by weight, shall be splits.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material; and,

(4) 3 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

§ 51.2754 *U. S. No. 2 Virginia.* "U. S. No. 2 Virginia" consists of shelled Virginia type peanut kernels of similar varietal characteristics which are free from foreign material, damage and minor defects, and which will not pass through a screen having 18/64 inch round openings. Not less than 25 percent, by weight, shall be splits.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2.5 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material; and,

(4) 6 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

APPLICATION OF TOLERANCES

§ 51.2755 *Application of tolerances.* The tolerances provided in these standards are on a lot basis and shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the peanuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

DEFINITIONS

§ 51.2756 *Similar varietal characteristics.* "Similar varietal characteristics" means that the peanut kernels in the lot are not of distinctly different varieties. For example, Spanish type shall not be mixed with Virginia.

§ 51.2757 *Whole.* "Whole" means that the peanut kernel is not split or broken.

§ 51.2758 *Split.* "Split" means the separated half of a peanut kernel.

§ 51.2759 *Broken.* "Broken" means that more than one-fourth of the peanut kernel is broken off.

§ 51.2760 *Foreign material.* "Foreign material" means pieces or loose particles of any substance other than peanut kernels or skins.

§ 51.2761 *Unshelled.* "Unshelled" means a peanut kernel with part or all of the hull (shell) attached.

§ 51.2762 *Minor defect.* "Minor defects" means that the peanut kernel is not damaged but is affected by one or more of the following:

(a) Skin discoloration which is dark brown, dark gray, dark blue or black and covers more than one-fourth of the surface;

(b) Flesh discoloration which is darker then a light yellow color or consists of more than a slight yellow pitting of the flesh;

(c) Sprout extending more than one-eighth of an inch from the tip of the kernel; and,

(d) Dirt when the surface of the kernel is distinctly dirty, and its appearance is materially affected.

§ 51.2763 *Damage.* "Damage" means that the peanut kernel is affected by one or more of the following:

(a) Rancidity or decay;

(b) Mold;

(c) Insects, worm cuts, web or frass;

(d) Freezing injury causing hard, translucent or discolored flesh; and,

(e) Dirt when the surface of the kernel is heavily smeared, thickly flecked or coated with dirt, seriously affecting its appearance.

The United States Standards for Shelled Virginia Type Peanuts contained in this subpart shall become effective 30 days after publication hereof in the FEDERAL REGISTER, and will thereupon supersede the United States Standards for Shelled Virginia Type Peanuts which have been in effect since November 1, 1939.

Dated: June 27, 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 56-5192; Filed, June 29, 1956; 8:47 a. m.]

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

[Valencia Orange Reg. 75]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.375 *Valencia Orange Regulation 75*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922; 21 F. R. 4392), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section 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 section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia

Orange Administrative Committee held an open meeting on June 28, 1956, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order*. (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., July 1, 1956, and ending at 12:01 a. m., P. s. t., July 8, 1956, is hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 646,800 cartons;

(iii) District 3: Unlimited movement.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

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

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

Dated: June 29, 1956.

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

[F. R. Doc. 56-5293; Filed, June 29, 1956; 11:50 a. m.]

PART 927—MILK IN NEW YORK METROPOLITAN MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing

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

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

(2) The parity prices of milk produced for sale in the said marketing area 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 supplies of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby 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

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

(b) *Additional findings.* It is necessary, in the public interest, to make this order amending the order, as amended, effective on July 1, 1956. An effective date other than as of the first day of a month is administratively impracticable. The provisions of the said order are well known to handlers, having been included in the decision published in the FEDERAL REGISTER on June 20, 1956 (21 F. R. 4317). The changes effected by this order amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective July 1, 1956.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order amending the order, as amended, which is marketed within the New York metropolitan milk marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (April 1956), were engaged in the production of milk for sale in the said marketing area.

It is therefore ordered, That for the month of July 1956, the handling of milk in the New York metropolitan milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as heretofore amended and as hereby further amended as follows:

1. Amend paragraph (a) of § 927.40 by adding a proviso as follows: "*Provided further,* That the Class I-A price for July 1956 shall be \$5.22."

2. Amend paragraph (f) of § 927.40 as follows:

a. Amend the opening sentence to read as follows: "For Class III milk, the price shall be the sum of the amounts computed or determined pursuant to subparagraphs (1), (2), and (3) of this paragraph, minus 80 cents."

b. Add a new subparagraph (3) as follows:

(3) Determine the appropriate seasonal adjustment in accordance with the following table:

Month to which the price is applicable:	*Amount*
July through November	\$0.13
December through February	.10
March and April	.08
May and June	.05

3. Amend § 927.43 as follows:

a. Change the words just prior to the first proviso from "four cents per pound of butterfat in such milk" to "four cents per pound of butterfat in such milk in the months of March through June and three cents per pound of butterfat in such milk in the months of July through February:".

b. Delete the first proviso.

c. Amend the second proviso to read: "*Provided,* That for milk received from producers during any of the months of March through July which is classified on the basis of one of the types of cheese named in this section, the amount so credited shall be increased one-cent per pound of butterfat for each full five-hundredths by which the ratio of 2.5 is lower than a ratio computed as follows: Add to the New York 92-score butter price for the month announced pursuant to § 927.46 (b) (5) the amount obtained by multiplying by 1.83 the weighted non-fat dry milk solids price for the period ending with the 25th day of the month as announced pursuant to § 927.46 (b) (7); divide this sum by the price of Cheddar cheese for the month as announced pursuant to § 927.46 (b) (8) and round the result to the nearest hundredth."

4. Amend § 927.44 prior to the first colon to read as follows:

§ 927.44 *Fluid skim differential.* For skim milk derived from Class II or Class III milk which skim milk enters the marketing area in the form of milk, fluid skim milk, condensed skim milk, half and half, cream, or cultured milk drinks and there utilized or disposed of in the form of milk, fluid skim milk, half and half, or cultured milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and for all other skim milk derived from Class II or Class III milk which is not established to have been otherwise utilized or disposed of, the handler shall pay a fluid skim differential per hundredweight computed as follows: * * *

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

Issued at Washington, D. C., this 27th day of June 1956 to be effective July 1, 1956.

[SEAL] TRUE D. MORSE, *Acting Secretary.*

[F. R. Doc. 56-5234; Filed, June 29, 1956; 8:55 a. m.]

[Lemon Reg. 648]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.755 *Lemon regulation 648*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 20 F. R. 8451; 21 F. R. 4393), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on June 27, 1956, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., July 1, 1956, and ending at 12:01 a. m., P. s. t., July 8, 1956, is hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 372,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: June 28, 1956.

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

[F. R. Doc. 56-5270; Filed, June 29, 1956; 8:56 a. m.]

PART 978—MILK IN NASHVILLE, TENN., MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING OF MILK

AUTHORITY: §§ 978.0 to 978.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and sup. 608c.

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

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

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

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order, as amended, and as hereby 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;

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

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this order amending the order, as amended, effective July 1, 1956. Such action is necessary in the public interest in order to reflect current marketing conditions and to insure the production of an adequate supply of milk for the Nashville marketing area.

(1) The changes effected by this order amending the order, as amended, do not require of persons affected substantial or extensive changes prior to the effective date. The provisions of the said order are well known to handlers, the public hearing having been held on September 22-23, 1955, the recommended decision having been published in the FEDERAL REGISTER (21 F. R. 2188) on April 5, 1956 and the final decision having been issued by the Acting Secretary on June 22, 1956. Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date and it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER.

(2) In view of the foregoing, it is hereby found that good cause exists for making this order amending the order, as amended, effective July 1, 1956 (section 4 (c), Administrative Procedure Act, 5 U. S. C. 1003 (c)).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order, amending the order, as amended) of more than 50 percent of the volume of milk covered by this order, amending the order, as amended, which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

1. The refusal of failure of such handlers to sign said marketing agreement tend to prevent the effectuation of the declared policy of the act;

2. This issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

3. The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (September 1955), were engaged in the production of milk for sale in the said marketing area.

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

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 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) Any fluid milk product is 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 a plant (except any portion thereof from which no fluid milk product may be disposed of under a Grade A label) specified under paragraph (a) of this section; or

(c) Grade A milk or skim milk equal to more than 70,000 pounds is shipped during the month for any of the months of September through December to plants (except any portions of such plants from which no fluid milk product may be disposed of under a Grade A label) specified under paragraph (a) of this section.

§ 978.9 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, 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 any other 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 a fluid milk plant directly from producers, or (b) diverted from a fluid milk plant to a nonfluid milk plant (except a nonfluid milk plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 978.11.

§ 978.13 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream or 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 specified in § 978.72 for the computation of base and excess prices, 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 specified in § 978.72 for computation of base and excess prices, 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 part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary, a bond, effective as of the date on which he enters upon his duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary;

(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 part, 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, 978.85 and 978.87;

(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 part;

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

(j) On or before the date specified, publicly announce 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 5th 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) his total pounds of base milk and his total pounds of excess milk for the month, 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 part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation, or when the records are no longer necessary in connection therewith.

CLASSIFICATION 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 part shall be classified as 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 as 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 as 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 State Capitol at Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified as 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 report: *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 as 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 State Capitol in Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified as 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 gives the market administrator sufficient notice to allow him to verify or inspect such shipment, 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, Bellsville, 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 as follows: *Provided*, That any fluid milk plant which, during the second preceding month, did not dispose of at least an average of 1,000 pounds of fluid milk products per day on routes (including routes operated by vendors and sales through plant stores) to retail or wholesale outlets in the marketing area shall not be included in the supply-demand computation:

(1) For each month calculate a utilization ratio as follows:

(i) Calculate a utilization percentage by dividing the total hundredweight of producer milk of all fluid milk plants during 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 the result by 100.

(ii) Add or subtract, respectively, any amount by which the percentage computed pursuant to subdivision (i) of this subparagraph is greater or less than a comparable utilization percentage calculated using the twelve-month period ending with the beginning of the fourth preceding month, and

(iii) The resultant 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.

(3) The price for Class I milk otherwise computed pursuant to this section shall be increased 46 cents from May 1956 through June 1956 and 26 cents for the month of July 1956.

(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 State Capitol, 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 State Capitol, Nashville, Tenn., (miles):	Rate per hundredweight (cents)
50 but not more than 60	10.0
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 August through January immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of January, inclusive, or by 120, whichever is more, except that bases computed for payments to producers in base-operating months of 1956 and 1957 shall be computed by dividing the pounds of producer milk received from the producer in 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 specified in § 978.60 for computation of base.

(b) An entire base or any portion thereof 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, and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base or any portion thereof shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs.

§ 978.62 *Announcement of established bases.* On or before February 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, except that such announcement in 1957 shall be on or before March 25.

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 month, except those months specified in § 978.72 for the computation of base and excess prices, 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;

(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 price for base milk and for excess milk for handlers.* For each of the months of March 1956 through August 1956, and March 1957 through July 1957, and for each of the months of February through July in subsequent years, the market administrator shall compute for each handler, with respect to his producer milk, a uniform price for base milk and for excess milk 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) Compute the value of excess milk on a 4.0 percent basis in the producer milk of such handler by multiplying the hundredweight of such milk not in excess of the total quantity of the Class II milk of such handler by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total quantity of such Class II milk of such handler by the price for Class I milk of 4.0 percent butterfat content and adding together resulting amounts;

(e) Divide the total value of excess milk obtained in paragraph (d) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content f. o. b. marketing area; *Provided,* That such excess price shall not exceed the uniform price for base milk computed pursuant to paragraph (g) of this section. Any additional value remaining shall be prorated on a volume basis between excess and base milk.

(f) Subtract the value of excess milk determined by multiplying the uniform price obtained in paragraph (e) of this section, times the hundredweight of such excess milk from the total value of producer milk determined according to the calculations in paragraph (a) through (c) of this section; and

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk in the producer milk of such handler and subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for base 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 each handler from whom the appropriate payments have been received pursuant to § 978.80 (b), such payments by the market administrator to be at not less than the uniform price computed pursuant to § 978.71 for such handler for the months for which such uniform prices are computed, and such payments to be for base and excess milk at not less than the uniform base and excess prices, respectively, computed pursuant to § 978.72 for such handler for the months for which such base and excess prices are computed, 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 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 State Capitol, 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 State Capitol, Nashville, Tenn., (miles):	*Rate per hundredweight (cents)*
50 but not more than 60	10.0
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 be 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 in which base and excess prices apply, the pounds of base 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 part, 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 a 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 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 part 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 part, shall except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator 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 part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative.

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an 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 part or any amendments to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

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

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

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until 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 part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator, or such person in liquidating 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 part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 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 part.

Issued at Washington, D. C., this 26th day of June 1956, to be effective on and after July 1, 1956.

[SEAL] TRUE D. MORSE, *Acting Secretary.*

[F. R. Doc. 56-5194; Filed, June 29, 1956; 8:47 a. m.]

PART 992—IRISH POTATOES GROWN IN WASHINGTON

LIMITATION OF SHIPMENTS

§ 992.311 *Limitation of shipments*—(a) *Findings.* (1) Pursuant to Marketing Agreement No. 113 and Order No. 92 (7 CFR Part 992), regulating the handling of Irish potatoes grown in the State of Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the State of Washington Potato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitations of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances, for such preparation, and (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

(b) *Order.* (1) During the period from July 2, 1956, through May 31, 1957, no handler shall ship potatoes of any variety unless such potatoes are "fairly clean" and (i) if they are of the round varieties (including, but not limited to, Kennebec, Irish Cobbler, Bliss Triumph, and Pontiac varieties), such potatoes meet the requirements of the U. S. No. 2 or better grade, 1⅞ inches minimum diameter, and (ii) if they are of the long varieties, (including, but not limited to, White Rose, Russet Burbank, and Early Gem varieties), such potatoes meet the requirements of the U. S. No. 2 or better grade, 2 inches minimum diameter or 4 ounces minimum weight, as such terms are defined in the United State Standards for Potatoes (§§ 51.1540 to 51.1559 of this title), including the tolerances set forth therein.

(2) During the period from July 2, 1956, through May 31, 1957, and subject to the requirements set forth in subparagraph (1) of this paragraph no handler shall ship (i) any lot of potatoes of the round varieties (including, but not limited to, Kennebec, Irish Cobbler, Bliss Triumph, and Pontiac varieties) if more than 20 percent of the potatoes in such lot have more than one-half of the skin missing or "feathered," as such terms are used in the said United States Standards, (ii) any lot of potatoes of the White Rose variety if more than 35 percent of the potatoes in such lot have more than one-half of the skin missing or "feathered," as such terms are used in the said United States Standards, or (iii) any lot of potatoes of the Netted Gem varieties (including, but not limited to Russet Burbank and Early Gem varieties) if such potatoes are more than "moderately skinned" as such term is defined in the said United States Standards which means that not more than 10 percent of such potatoes have more than one-half of the skin missing or "feathered."

(3) Pursuant to § 992.49, each handler may make one shipment of not in excess of five hundredweight per week without regard to the limitations set forth in subparagraphs (1) and (2) of this paragraph and §§ 992.41 and 992.53.

(4) The limitations set forth in subparagraphs (1) and (2) of this paragraph shall not be applicable to shipments of potatoes for any of the following purposes: (i) Export; (ii) distribution by the Federal Government, distribution by relief agencies, or consumption by charitable institutions; (iii) manufacture or conversion into starch, flour, alcohol, dehydrated products, canned products, frozen products, or potato chips; (iv) livestock feed; or (v) certified seed potatoes.

(5) Each handler making shipments of potatoes (except shipments of certified seed potatoes) pursuant to subparagraph (4) of this paragraph shall (i) pursuant to § 992.120 first apply to the committee for and obtain a Certificate

of Privilege permitting the proposed shipments (except shipments for distribution by the Federal Government); (ii) pay assessments on such shipments pursuant to § 992.41 (except shipments for livestock feed and starch); (iii) have such shipments (except shipments for livestock feed and starch) inspected pursuant to § 992.53; and (iv) for each shipment (except shipments for livestock feed and starch) furnish the committee with the applicant handler's certification and the buyer's certification that the potatoes to be handled under the Cerificate of Privilege are to be used for the purpose stated: *Provided*, That the buyer agrees in his certification to make periodic reports to the committee showing the date of each shipment received under a Certificate of Privilege, the quantity (in hundredweight) of potatoes received, and the inspection certificate number when applicable and the rail car or truck license number.

(6) Terms used in Marketing Agreement No. 113 and Order No. 92 shall, when used in this section, have the same meaning as when used in said agreement and order.

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

Done at Washington, D. C. this 26th day of June 1956, to become effective July 2, 1956.

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

[F. R. Doc. 56-5193; Filed, June 29, 1956; 8:47 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

PART 18—MAINTENANCE, REPAIR, AND ALTERATION OF AIRFRAMES, POWERPLANTS, PROPELLERS, AND APPLIANCES

Because of the number of outstanding amendments to Part 18, it has been decided to issue a revision of this part incorporating all amendments thereto in effect on July 17, 1956. Attention is called also to the following minor changes which have been made:

(1) All definitions in § 18.1 have been arranged alphabetically, without subsection numbers. Also, minor editorial changes have been made in some of the definitions for the purpose of obtaining uniformity in language or clarification of intent.

(2) All footnotes have been changed to notes and follow the sections to which they apply.

Since the changes effected by this revision are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary and the revised part may be made effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby revises Part 18 of the Civil Air Regulations (14 CFR Part 18, as amended) as attached hereto, effective on July 17, 1956.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

AUTHORITY: §§ 18.0 to 18.30 issued under sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended, sec. 605, 52 Stat. 1010; 49 U. S. C. 551, 554.

APPLICABILITY AND DEFINITIONS

§ 18.0 *Applicability of this part.* This part establishes rules for the performance of maintenance, repair, and alteration of aircraft for which airworthiness certificates have been issued by the Administrator, or any component thereof.

NOTE: The Administrator publishes Civil Aeronautics Manual 18 which lists operations considered to be maintenance, preventive maintenance, minor and major repairs and alterations, and progressive and 100-hour inspections, and sets forth acceptable procedures, methods, and practices under the provisions of this part. This manual may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

§ 18.1 *Definitions.* As used in this part terms are defined as follows:

Aircraft. An aircraft is any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, including airframe, powerplant, propeller, and appliances.

Aircraft engine. An aircraft engine is an engine used, or intended to be used, for propulsion of aircraft, and includes all parts, appurtenances, and accessories thereof other than propellers.

Airframe. Airframe means any and all kinds of fuselages, booms, nacelles, cowlings, fairings, empennages, airfoil surfaces, and landing gear, and all parts, accessories, or controls, of whatever description, appertaining thereto, but not including powerplants and propellers.

Alteration. An alteration means any appreciable change in the design of an airframe, powerplant, propeller, or appliance.

Appliances. Appliances are instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including communications equipment, electronic devices, and any other mechanism or mechanisms installed in or attached to aircraft during flight, but excluding parachutes), and which are not a part or parts of airframes, powerplants, or propellers.

Appropriately certificated air carrier. An appropriately certificated air carrier is an air carrier holding an air carrier operating certificate, and which is required, either by its operating certificate or by operations specifications approved by the Administrator, to provide for a continuous airworthiness maintenance and inspection program to be performed by the carrier in accordance with its maintenance manual.

Approved. Approved, when used either alone or as modifying such words as aircraft, airframe, powerplant, propeller, appliance, method, or technique, means approved by the Administrator of Civil Aeronautics in accordance with the applicable requirements of this subchapter.

Authorized representative of the Administrator. An authorized representative of the Administrator is any employee of the Civil Aeronautics Administrator or any private person, authorized by the Administrator to perform particular duties of the Administrator under the provisions of this part.

Certificated commercial operator. A certificated commercial operator is any person holding a commercial operator certificate as required by the provisions of Part 45 of this subchapter.

Certificated mechanic. A certificated mechanic is an individual holding a valid mechanic certificate with appropriate ratings issued by the Administrator.

Certificated repair station. A certificated repair station is a facility for the maintenance, repair, and alteration of airframes, powerplants, propellers, or appliances, holding a valid repair station certificate with appropriate ratings issued by the Administrator.

Certificated repairman. A certificated repairman is an individual holding a valid repairman certificate issued in accordance with Subpart B of Part 24 of this subchapter.

Component. A component is a constituent part of an aircraft.

Instrument. An instrument is a device utilizing internal mechanism to indicate visually or aurally the attitude, altitude, performance, or operation of an aircraft or any component thereof, and shall include electronic instrumentation and devices for the automatic control of navigation of the aircraft in flight.

Maintenance. Maintenance, which includes preventive maintenance, is the inspection, overhaul, repair, upkeep, and preservation of airframes, powerplants, propellers, and appliances, including the replacement of parts.

Major alteration. A major alteration of an aircraft or any component thereof is:

(a) An alteration which might cause an appreciable change in its weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness, or

(b) An alteration which is not accomplished in accordance with accepted practices or cannot be performed by means of elementary operations.

Major repair. A major repair to an aircraft or any component thereof is:

(a) A repair which, if improperly accomplished, would adversely affect the structural strength, performance, flight characteristics, powerplant operation, or other qualities affecting airworthiness, or

(b) A repair which is not accomplished in accordance with accepted practices or cannot be performed by means of elementary operations.

Manufacturer. A manufacturer is any person who:

(a) Holds a type or production certificate for and manufactures an aircraft, aircraft engine, propeller, or appliance, or

(b) Manufactures an approved appliance in accordance with a specification issued by the Administrator.

Minor alteration. A minor alteration of an aircraft or any component thereof is an alteration other than a major alteration.

Minor repair. A minor repair is any repair other than a major repair.

One-hundred-hour inspection. A 100-hour inspection is an inspection of an aircraft required within each 100 hours of time in service and is a complete airworthiness inspection of such aircraft and its various components and systems in accordance with procedures prescribed by the Administrator.

Periodic inspection. A periodic inspection is an inspection of an aircraft required once each 12 calendar months and is a complete airworthiness inspection of such aircraft and its various components and systems in accordance with procedures prescribed by the Administrator.

Person. Person means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Powerplant. A powerplant is an aircraft engine and its component parts, and other parts necessary to properly install such engine in an aircraft, but not the propeller (if used).

Preventive maintenance. Preventive maintenance means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.

Note: The Administrator publishes, as part of Civil Aeronautics Manual 18, the various operations constituting preventive maintenance of the several types of aircraft.

Progressive inspection. A progressive inspection is a continuing airworthiness inspection of an aircraft and its various components and systems at scheduled intervals in accordance with procedures prescribed by the Administrator.

Propeller. A propeller is a device for propelling an aircraft through the air, having blades mounted on a power-driven shaft, which when rotated produces by its action on the air a thrust approximately parallel to the longitudinal axis of the aircraft, and also includes control components normally supplied by the manufacturer of the propeller. It also includes a system of rotating airfoils which serve either to counteract the effect of the main rotor torque of a rotorcraft or to maneuver a rotorcraft about one or more of its three principal axes.

Repair. Repair means the restoration of an airframe, powerplant, propeller, or appliance to a condition for safe operation after damage or deterioration.

Time in service. Time in service, as used in computing maintenance and inspection time records, is the time from the moment an aircraft leaves the ground until it touches the ground at the end of a flight.

Type. Type is a specific classification of aircraft having the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

GENERAL

§ 18.10 *Persons authorized to perform maintenance, preventive maintenance, repairs, and alterations.* No person shall perform maintenance, preventive maintenance, repairs, or alterations on civil aircraft of United States registry except as provided as follows:

Note: The Communications Act of 1934, as amended, and the rules and regulations of the Federal Communications Commission require that all transmitter adjustments or tests during or coincident with the installation, servicing, or maintenance of a radio station licensed by the Federal Communications Commission which may affect the proper operation of such station shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class radio operator license issued by the Federal Communications Commission, either radiotelephone or radiotelegraph as may be appropriate for the class of station concerned, who shall be responsible for the proper functioning of the station equipment.

(a) A certificated mechanic or a person who works under the direct supervision of such mechanic may perform maintenance, repairs, and alterations on aircraft or aircraft components including related appliances, appropriate to his rating, but excluding major repairs and alterations to propellers and all repairs and alterations to instruments.

(b) An appropriately rated repair station may perform maintenance, repairs, and alterations on aircraft or aircraft components, including propellers and appliances, as provided in Part 52 of this subchapter.

(c) A certificated pilot may perform, on aircraft owned or operated by him, except aircraft used in air carrier service, such preventive maintenance as may be authorized by the Administrator.

(d) A manufacturer shall be subject to the requirements of paragraphs (a) and (b) of this section, except that he may rebuild or alter:

(1) Any product manufactured by him under a type or production certificate, or

(2) Any product manufactured by him and approved under the terms of a Technical Standard Order or Product and Process Specification issued by the Administrator.

(e) An appropriately certificated air carrier may perform maintenance, repairs, and alterations on aircraft or aircraft components, including propellers and appliances, as provided for in its continuous airworthiness maintenance and inspection program and its maintenance manual. It may also perform maintenance, repairs, and alterations on any aircraft or aircraft components, including propellers and appliances, owned or operated by another air carrier as provided for in the applicable continuous airworthiness maintenance and inspection program and maintenance manual of such other air carrier.

(f) A certificated commercial operator may perform maintenance, repairs, and alterations on its own aircraft or aircraft components, including propellers and appliances, as provided for in its continuous airworthiness maintenance and inspection program and its maintenance manual.

§ 18.11 *Persons authorized to approve maintenance, repairs, and alterations.*

Note: Section 43.21 of this subchapter requires that when an aircraft has undergone any repair or alteration which may have appreciably changed its flight characteristics or substantially affected its operation in flight, such aircraft, prior to carrying passengers, shall be test flown.

(a) *Maintenance, minor repairs, and minor alterations.* No airframe, powerplant, propeller, or appliance which has undergone maintenance, minor repair, or minor alteration may be approved and returned to service except by one of the following:

(1) An appropriately rated certificated mechanic; or

(2) An appropriately rated certificated repair station; or

(3) An appropriately certificated air carrier; or

(4) A manufacturer, if the product has been rebuilt or altered by the manufacturer under the provisions of § 18.10 (d); or

(5) A certificated commercial operator.

(b) *Major repairs and major alterations.* No airframe, powerplant, propeller, or appliance, which has undergone any major repair or major alteration shall be returned to service until such repair or alteration has been examined, inspected, and approved as airworthy by one of the following:

Note: A major repair or major alteration whose design has not previously been approved by the Administrator may require the submittal of technical data and/or flight tests in order to establish compliance with the applicable airworthiness provisions. Examples of such major alterations for which it would be desirable to contact a representative of the Administrator prior to accomplishment of the alteration are given in Civil Aeronautics Manual 18. See also § 1.25 of this subchapter.

(1) An authorized representative of the Administrator; or

(2) An appropriately rated certificated repair station, if the work has been per-

formed by such repair station in accordance with a manual, specification, or other technical data approved by the Administrator; or

(3) A manufacturer, if the product has been rebuilt or altered by the manufacturer under the provisions of § 18.10 (d) and in accordance with a manual, specification, or other technical data approved by the Administrator; or

(4) An appropriately certificated air carrier, if the work has been performed by such air carrier in accordance with a manual, specification, or other technical data approved by the Administrator; or

(5) An appropriately rated certificated repair station, a manufacturer, or an appropriately certificated air carrier, if the product has been approved under the terms of a Technical Standards Order and the work is performed in accordance with data furnished by the product manufacturer which he asserts meet the terms of the Technical Standard Order; or

(6) A certificated commercial operator, if the work has been performed on aircraft listed in the operating certificate of that operator and has been performed in accordance with a manual, specification, or other technical data approved by the Administrator; or

(7) A certificated mechanic holding both airframe and powerplant ratings when authorized by the Administrator in accordance with the provisions of Part 24 of this subchapter, if the work has been performed in accordance with a manual, specification, or other technical data approved by the Administrator.

§ 18.12 *Persons authorized to perform and approve one-hundred-hour, periodic, and progressive inspections*—(a) *One-hundred-hour inspection.* No person shall perform and approve 100-hour inspections except one of the following:

(1) Certificated mechanics who together hold airframe and powerplant ratings, or a certificated mechanic holding both such ratings; or

(2) An appropriately rated certificated repair station; or

(3) The manufacturer holding the type certificate for the aircraft and who is operating under an approved production inspection system or a production certificate.

(b) *Periodic inspection.* No person shall perform and approve periodic inspections except one of the following:

(1) A certificated mechanic holding both airframe and powerplant ratings when authorized by the Administrator in accordance with Part 24 of this subchapter; or

(2) An appropriately rated certificated repair station; or

(3) The manufacturer holding the type certificate for the aircraft and who is operating under an approved production inspection system or a production certificate.

(c) *Progressive inspection.* No person shall perform or supervise and approve progressive inspections except one of the following:

(1) A certificated mechanic holding both airframe and powerplant ratings when authorized by the Administrator in accordance with Part 24 of this subchapter; or

(2) An appropriately rated certificated repair station; or

(3) The manufacturer holding the type certificate for the aircraft and who is operating under an approved production inspection system or a production certificate.

NOTE: This section does not apply to persons engaged in the inspection and maintenance of aircraft operated in accordance with Part 40 or Part 41 of this subchapter or aircraft of more than 12,500 pounds maximum certificated take-off weight operated in accordance with the provisions of Part 42 of this subchapter.

§ 18.13 *Aircraft operating limitations.* When a major repair or major alteration results in any change in the aircraft operating limitations or data contained in the approved airplane flight manual, appropriate amendments to the aircraft operating limitations shall be made in the form and manner approved by the Administrator.

MAINTENANCE, REPAIR, AND ALTERATION RECORDS

§ 18.20 *Required records and entries.* A permanent record of every maintenance (excepting preventive maintenance), repair, rebuilding, or alteration of any airframe, powerplant, propeller, or appliance shall be maintained by the owner (or in the case of an aircraft by the registered owner) in a logbook or other permanent record satisfactory to the Administrator, which shall contain at least the information specified in § 18.21. Entries in such records shall be made or caused to be made by the individual, repair station, air carrier, or manufacturer performing the work.

§ 18.21 *Content of repair and alteration records.* The record of all maintenance, repair, rebuilding, and alteration of any airframe, powerplant, propeller, or appliance or the installation or removal of an appliance shall contain the information set forth in paragraphs (a) through (d) of this section:

(a) An adequate description of the work performed;

(b) The date of completion of the work performed;

(c) The name of the individual, repair station, manufacturer, or air carrier performing the work; and

(d) The signature, and if a certificated mechanic or certificated repairman the certificate number, of the person approving as airworthy the work performed and authorizing the return of the aircraft or component to service.

§ 18.22 *Form and disposition of major repair or major alteration records.* All major repairs and major alterations to an airframe, powerplant, propeller, or appliance shall be entered on a form acceptable to the Administrator. Such form shall be executed in duplicate and shall be disposed of in such manner as, from time to time, may be prescribed by the Administrator.

§ 18.23 *Form and disposition of periodic and progressive inspection records.* A record of periodic and progressive inspections shall be entered on a form prescribed by the Administrator. Such form shall be completed and disposed of in a manner prescribed by the Administrator.

§ 18.24 *Provisions for air carrier records.* Required records and entries may be replaced, in the case of maintenance, repairs, or alterations to appropriately certificated air carrier aircraft, by a suitable system of recording maintenance, repairs, alterations, and signatures of responsible personnel: *Provided*, That the information specified in § 18.21 is furnished.

PERFORMANCE RULES

§ 18.30 *Standard of performance; general.* All maintenance, repairs and alterations shall be accomplished in accordance with methods, techniques, and practices approved by or acceptable to the Administrator.

(a) *Maintenance and repair.* All maintenance and repair shall be accomplished in such a manner and the materials used shall be of such quality and strength that the condition of the part of the aircraft on which such work has been performed shall, with regard to aerodynamic and mechanical function, structural strength, resistance to vibration and deterioration, and other qualities affecting airworthiness, be at least equivalent to its original or properly altered condition.

(b) *Alterations.* All alterations shall be so designed and accomplished that the altered airframe, powerplant, propeller, or appliance will comply with the applicable airworthiness requirements for the airframe, powerplant, propeller, or appliance.

NOTE: The airworthiness requirements applicable to an alteration are normally those with which the manufacturer originally demonstrated compliance for the issuance of a type certificate. The Aircraft Specification includes a reference to that part of the Civil Air Regulations and to the category under which the original type certification was obtained. The individual parts of the airworthiness regulations specify that the provisions in effect on the date of application for approval of the alteration may be made applicable. (See §§ 3.11, 4b.11, 5.11, 6.11, 13.11, or 14.11 of this subchapter, whichever part is applicable.) More detailed information on the requirements applicable at the time of type certification can be obtained from the Civil Aeronautics Administration.

(c) *Inspections.* One-hundred-hour, periodic, and progressive inspections shall be accomplished in accordance with procedures prescribed by the Administrator.

NOTE: Specific record or reporting requirements subsequently prescribed will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

[F. R. Doc. 56-5230; Filed, June 29, 1956; 8:54 a. m.]

PART 24—MECHANIC AND REPAIRMAN CERTIFICATES

Because of the number of outstanding amendments to Part 24, it has been decided to issue a revision of this part incorporating all amendments thereto in effect on July 17, 1956. Attention is called also to the following minor changes which have been made:

(1) All definitions in § 24.1 have been arranged alphabetically, without subsection numbers. Also, minor editorial changes have been made in some of the definitions for the purpose of obtaining uniformity in language or clarification of intent.

(2) All footnotes have been changed to notes and follow the sections to which they apply.

Since the changes effected by this revision are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary and the revised part may be made effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby revises Part 24 of the Civil Air Regulations (14 CFR Part 24, as amended) as attached hereto, effective on July 17, 1956.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

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24.110 Citizenship.
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PRIVILEGES AND LIMITATIONS OF A REPAIRMAN CERTIFICATE

24.130 General.

OPERATING RULES

24.140 General.

AUTHORITY: §§ 24.0 to 24.140 issued under sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; secs. 602, 605, 608, 52 Stat. 1008, 1010, 1011; 49 U. S. C. 551, 552, 555, 558.

APPLICABILITY AND DEFINITIONS

§ 24.0 *Applicability of this part.* This part establishes requirements for the issuance of mechanic and repairman certificates and ratings, delineates the privileges of such certificates, and establishes basic operating rules for the holders thereof.

§ 24.1 *Definitions.* As used in this part terms are defined as follows:

Aircraft. An aircraft is any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, including airframe, powerplant, propeller, and appliances.

Aircraft engine. An aircraft engine is an engine used, or intended to be used, for propulsion of aircraft, and includes all parts, appurtenances, and accessories thereof other than propellers.

Airframe. Airframe means any and all kinds of fuselages, booms, nacelles, cowlings, fairings, empennages, airfoil surfaces, and landing gear, and all parts, accessories, or controls, of whatever description, appertaining thereto, but not including powerplants and propellers.

Alteration. An alteration means any appreciable change in the design of an airframe, powerplant, propeller, or appliance.

Appliances. Appliances are instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including communication equipment, electronic devices, and any other mechanism or mechanisms installed in or attached to aircraft during flight, but excluding parachutes), and which are not a part or parts of airframes, powerplants, or propellers.

Appropriately certificated air carrier. An appropriately certificated air carrier is an air carrier holding an air carrier operating certificate, and which is required, either by its operating certificate or by operations specifications approved by the Administrator, to provide for a continuous airworthiness maintenance and inspection program to be performed by the carrier in accordance with its maintenance manual.

Approved. Approved, when used either alone or as modifying such words as aircraft, airframe, powerplant, propeller, appliance, method, or technique, means approved by the Administrator of Civil Aeronautics in accordance with the applicable requirements of this subchapter.

Authorized representative of the Administrator. An authorized representative of the Administrator is any employee of the Civil Aeronautics Administrator or any private person, authorized by the Administrator to perform particular duties of the Administrator under the provisions of this part.

Certificated mechanic. A certificated mechanic is an individual holding a valid mechanic certificate with appropriate ratings issued by the Administrator.

Certificated repair station. A certificated repair station is a facility for the maintenance, repair, and alteration of airframes, powerplants, propellers, or appliances, holding a valid repair station certificate with appropriate ratings issued by the Administrator.

Certificated repairman. A certificated repairman is an individual holding a valid repairman certificate issued in accordance with Subpart B of this part.

Component. A component is a constituent part of an aircraft.

Maintenance. Maintenance which includes preventive maintenance, is the inspection, overhaul, repair, upkeep, and preservation of airframes, powerplants, propellers, and appliances, including the replacement of parts.

Major alteration. A major alteration of an aircraft or any component thereof is:

(a) An alteration which might cause an appreciable change in its weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness, or

(b) An alteration which is not accomplished in accordance with accepted practices or cannot be performed by means of elementary operations.

Major repair. A major repair to an aircraft or any component thereof is:

(a) A repair which, if improperly accomplished, would adversely affect the structural strength, performance, flight characteristics, powerplant operation, or other qualities affecting airworthiness, or

(b) A repair which is not accomplished in accordance with accepted practices or cannot be performed by means of elementary operations.

Minor alteration. A minor alteration of an aircraft or any component thereof is an alteration other than a major alteration.

Minor repair. A minor repair is any repair other than a major repair.

Powerplant. A powerplant is an aircraft engine and its component parts, and other parts necessary to properly install such engine in an aircraft, but not the propeller (if used).

Preventive maintenance. Preventive maintenance means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.

NOTE: The Administrator publishes, as part of Civil Aeronautics Manual 18, the various operations constituting preventive maintenance of the several types of aircraft.

Propeller. A propeller is a device for propelling an aircraft through the air, having blades mounted on a power-driven shaft, which when rotated produces by its action on the air a thrust approximately parallel to the longitudinal axis of the aircraft, and also includes control components normally supplied by the manufacturer of the propeller. It also includes a system of rotating airfoils which serve either to counteract the effect of the main rotor torque of a rotorcraft or to maneuver a rotorcraft about one or more of its three principal axes.

Repair. Repair means the restoration of an airframe, powerplant, propeller, or appliance to a condition for safe operation after damage or deterioration.

SUBPART A—MECHANIC CERTIFICATES

CERTIFICATION RULES

§ 24.5 *Application for certificate.* Application for certificates and ratings shall be made on a form and in a manner prescribed by the Administrator.

§ 24.6 *Issuance.* (a) Mechanic certificates and ratings shall be issued by the Administrator to applicants who meet the requirements of this part.

(b) Pending a review of an application and supporting documents by the Administrator and the issuance of a mechanic certificate and ratings, an authorized representative of the Administrator may, subject to such terms and conditions as the Administrator may specify, issue a temporary mechanic certificate with appropriate ratings to an applicant, if the representative determines that the applicant has met the requirements of this part.

§ 24.7 *Duration.* (a) A mechanic certificate and ratings shall remain in effect until surrendered, suspended, revoked, or otherwise terminated by order of the Board, except that a certificate issued to an individual other than a United States citizen shall remain in effect for only one year: *Provided*, That upon application to the Administrator and upon showing continued compliance with the other requirements of this part, a mechanic certificate may be reissued to an individual other than a United States citizen for additional periods of one year without further demonstration of technical competence. After revocation, and upon request of the Administrator after suspension or termination, the certificate shall be returned to the Administrator.

(b) A temporary mechanic certificate shall remain in effect for 90 days.

§ 24.8 *Outstanding mechanic certificates and ratings.* After the effective date of this part (June 15, 1952) a person holding a valid mechanic certificate with an aircraft mechanic rating shall be deemed to hold a valid mechanic certificate with an airframe rating, a person holding a valid mechanic certificate with an aircraft engine mechanic rating shall be deemed to hold a valid mechanic certificate with a powerplant rating, and a person holding a valid mechanic certificate with aircraft mechanic and aircraft engine mechanic ratings shall be deemed to hold a valid mechanic certificate with both airframe and powerplant ratings. The Administrator may, in such form and manner as he may establish, require the exchange of outstanding certificates for certificates issued in accordance with the provisions of this part.

§ 24.9 *Display.* When issued to the individual, the mechanic certificate with appropriate ratings shall be kept readily available by the mechanic at all times while exercising the privileges of such certificate, and shall be available for inspection by any authorized representative of the Administrator or the Board, or by any authorized State or local law enforcement officer.

§ 24.10 *Identification.* The holder of a certificate issued under the provisions of this subpart shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

§ 24.11 *Change of address.* Within 30 days after any change in the permanent mailing address of a holder of a mechanic certificate, the holder shall notify the Administrator in writing of such change. Such notice shall be mailed to the Administrator of Civil Aeronautics, Attention Airman Records Branch, Washington 25, D. C.

GENERAL CERTIFICATE REQUIREMENTS

§ 24.15 *Citizenship.* An applicant for a mechanic certificate may be a citizen of any country or a person without nationality.

§ 24.16 *Age.* An applicant shall be at least 18 years of age.

§ 24.17 *Education.* An applicant shall be able to read, write, speak, and understand the English language: *Provided*, That if an applicant is employed by a United States air carrier outside of the United States, such applicant shall not be required to meet this requirement, and in that event his certificate shall be appropriately endorsed by the Administrator.

§ 24.18 *Examinations and tests.* Examinations and tests shall be conducted by an authorized representative of the Administrator at such times and places as the Administrator may designate.

§ 24.19 *Re-examination after failure.* An applicant for a mechanic certificate who has failed any prescribed written or practical examination or test may not apply for re-examination within 30 days after the date of such examination or test unless he presents a statement signed by a certificated mechanic holding an appropriate rating, a certificated ground instructor holding an appropriate rating, or an equally qualified individual acceptable to the Administrator, which attests that the applicant has received an additional 5 hours of instruction in each of the subjects failed and that the applicant is considered competent for re-examination.

§ 24.20 *Application for additional rating.* An applicant for a rating subsequent to the original issuance of a mechanic certificate with appropriate rating shall meet the knowledge, experience, and skill requirements for the rating sought.

§ 24.21 *Substantiation of experience.* An applicant shall submit evidence satisfactory to the Administrator to substantiate the experience qualifications for the mechanic certificate and rating sought.

§ 24.22 *Ratings.* The following mechanic ratings shall be issued:

(a) Airframe;
(b) Powerplant; and
(c) Airframe and powerplant.

MECHANICAL KNOWLEDGE, EXPERIENCE, AND SKILL REQUIREMENTS

§ 24.30 *Mechanical knowledge.* An applicant for a mechanic certificate with airframe or powerplant rating shall successfully accomplish a written and oral examination prescribed by the Administrator covering the construction, maintenance, repair, and inspection of aircraft appropriate to the rating sought, the provisions of this part, the applicable provisions of Parts 18 and 43 of this subchapter, and the provisions of Civil Aeronautics Manual 18. The basic principles covering the maintenance, installation, and inspection of propellers shall be included in the powerplant examination.

§ 24.31 *Mechanical experience.* An applicant for a mechanic certificate with either an airframe or powerplant rating shall have had at least 18 months of practical experience with the applicable procedures, practices, material, tools, machine tools, and equipment generally used in the construction, inspection, maintenance, repair, and alteration of airframes or of powerplants including propellers: *Provided*, That an applicant for an airframe and powerplant rating may be issued such rating, if he has performed concurrently the duties appropriate to both airframe and powerplant ratings for at least 30 months.

§ 24.32 *Graduates of certificated mechanic schools.* A graduate of a certificated mechanic school shall be deemed to have met the experience requirements of this part for a rating if, within 60 days after graduation, he presents an appropriate certificate of graduation: *Provided*, That when a graduate because of unanticipated circumstances is unable to present his certificate within such period, the Administrator, upon receipt of proof to that effect, may extend the 60-day period.

§ 24.33 *Mechanical skill.* An applicant for a mechanic certificate with a particular rating shall, in a manner prescribed by the Administrator, demonstrate his competency to maintain, repair, inspect, and alter any part of an aircraft for which a rating is sought. An applicant's ability to satisfactorily accomplish minor repairs and minor alterations to propellers shall be a part of such demonstration of competency for the powerplant rating.

PRIVILEGES AND LIMITATIONS OF A MECHANIC CERTIFICATE

§ 24.40 *Mechanic privileges; general.* A certificated mechanic may perform or supervise the maintenance, repair, inspection, and alteration of an aircraft, or component thereof, for which he is rated, and may perform additional work in accordance with the privileges and limitations stated in §§ 18.10, 18.11, 18.12, 24.41, 24.42, and 24.43 of this subchapter: *Provided*, That he shall not supervise the maintenance, repair, inspection, or alteration of or return to service any part of an aircraft for which he is rated unless he has previously performed the particular operation involved in a satisfactory manner or has otherwise established his competency to perform such operation.

§ 24.41 *Airframe rating*. A certificated mechanic with an airframe rating may release the airframe, or any component thereof, for service after he has performed, supervised, or inspected maintenance, minor repair, or minor alteration thereon. In addition, he may perform the 100-hour inspection required by Part 43 of this subchapter on an airframe, or any component thereof, and may return the same to service.

§ 24.42 *Powerplant rating*. A certificated mechanic with a powerplant rating may perform maintenance, minor repairs, or minor alterations to a propeller, and may release the powerplant or propeller, or any component thereof, for service after he has performed, supervised, or inspected maintenance, minor repair, or minor alteration thereon. In addition, he may peform the 100-hour inspection required by Part 43 of this subchapter on a powerplant or propeller, or any component thereof, and may release the same to service.

§ 24.43 *Airframe and powerplant ratings*. (a) A certificated mechanic holding both airframe and powerplant ratings and having such other qualifications as the Administrator may deem appropriate, when issued an inspection authorization by the Administrator under paragraph (b) of this section, may:

(1) Inspect and return to service aircraft or aircraft components thereof (excluding aircraft operated in accordance with the provisions of Part 40 or Part 41 of this subchapter, or aircraft of more than 12,500 pounds maximum certificated take-off weight when operated in accordance with the provisions of Part 42 of this subchapter) after major repairs and major alterations have been made in accordance with the provisions of Part 18 of this subchapter; and

(2) Perform the periodic, and perform or supervise the progressive inspections required by Part 43 of this subchapter. The activities conducted under authority of this subparagraph shall be in accordance with procedures and standards prescribed by the Administrator.

(b) The Administrator shall issue an appropriate, written inspection authorization to any person qualified under paragraph (a) of this section who shall apply therefor in a manner and form specified by the Administrator.

OPERATING RULES

§ 24.50 *General*. A certificated mechanic shall not exercise the privileges of his certificate and rating unless he is familiar with the current manufacturers' instructions and the maintenance manuals pertinent to the particular operation to be performed.

§ 24.51 *Recent experience requirements*. A certificated mechanic shall not exercise the privileges of his certificate and ratings unless, within the preceding 24 months he has either:

(a) Been found competent by an authorized representative of the Administrator, or

(b) For at least 6 months during the preceding 24-month period:

(1) Served as a mechanic under the terms of his certificate and ratings, or

(2) Been engaged in the technical supervision of mechanics, or

(3) Been engaged in the executive supervision of maintenance, repair, or alteration of aircraft, or

(4) Been engaged in any combination of subparagraphs (1), (2), and (3) of this paragraph.

SUBPART B—REPAIRMAN CERTIFICATES

CERTIFICATION RULES

§ 24.100 *Classification*. There is hereby established a classification of airman, known as a "repairman," who:

(a) Possesses special qualifications to perform inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances;

(b) Is employed by a certificated repair station or an appropriately certificated air carrier for a particular job requiring such special qualifications; and

(c) Is recommended for certification by such employer to the Administrator or his authorized representative.

§ 24.101 *Issuance*. A repairman certificate may be issued by the Administrator or his authorized representative to an individual who is found to meet the requirements of this subpart and who has been recommended for such certification by the certificated repair station or appropriately certificated air carrier by whom he is employed.

§ 24.102 *Duration*. A repairman certificate shall be valid until the termination of the holder's employment by the recommending repair station or air carrier, or relief of the repairman from the particular duties for which he was employed and certificated, whichever shall first occur, unless it is sooner suspended, revoked, or otherwise terminated by the Board, after which it shall be returned to the Administrator.

§ 24.103 *Display*. The repairman certificate shall be kept readily available by the repairman at all times while exercising the privileges of such certificate, and it shall be available for inspection by an authorized representative of the Administrator or the Board, or by any authorized State or local law enforcement officer.

§ 24.104 *Identification*. The holder of a certificate issued under the provisions of this subpart shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

§ 24.105 *Change of address*. Within 30 days after any change in the permanent mailing address of a holder of a repairman certificate, the holder shall notify the Administrator in writing of such change. Such notice shall be mailed to the Administrator of Civil Aeronautics, Attention Airman Records Branch, Washington 25, D. C.

GENERAL CERTIFICATE REQUIREMENTS

§ 24.110 *Citizenship*. An applicant for a repairman certificate may be a citizen of any country or a person without nationality.

§ 24.111 *Age*. An applicant shall be at least 18 years of age.

§ 24.112 *Education*. An applicant shall be able to read, write, speak, and understand the English language: *Provided*, That if an applicant is employed outside of the United States by an appropriately certificated United States air carrier or a certificated repair station, such applicant shall not be required to meet this requirement, and in that event his certificate shall be appropriately endorsed by the Administrator, or the authorized representative of the Administrator who issued the certificate.

EXPERIENCE AND SKILL REQUIREMENTS

§ 24.120 *General*. The repair station or air carrier by whom the applicant is or will be employed shall certify to the satisfaction of the Administrator or his authorized representative that the applicant is competent to perform the duties of inspection, maintenance, overhaul, or repair of the particular aircraft, aircraft engines, propellers, or appliances with respect to which he is to be employed.

§ 24.121 *Minimum experience*. The applicant shall have had at least 18 months of practical experience with the procedures, practices, inspection methods, materials, tools, machine tools, and equipment generally used in the inspection, maintenance, overhaul, or repair functions of the particular job for which he is to be employed and certificated.

PRIVILEGES AND LIMITATIONS OF A REPAIRMAN CERTIFICATE

§ 24.130 *General*. A certificated repairman may supervise or perform the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances in connection with the particular job for which he was employed and certificated. Such privileges may be exercised only in connection with such duties with the certificated repair station or appropriately certificated air carrier by whom he was recommended and employed.

OPERATING RULES

§ 24.140 *General*. A certificated repairman shall not exercise the privileges of his certificate unless he is familiar both with current manufacturers' or appropriate air carriers' instructions and the maintenance manuals pertinent to the particular operation to be performed.

NOTE: Specific record or reporting requirements subsequently prescribed will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

[F. R. Doc. 56-5231; Filed, June 29, 1956; 8:54 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6512]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

CENU FIBRES, LTD., ET AL.

Subpart—*Misbranding or mislabeling:* § 13.1190 *Composition:* Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* Wool Products Labeling Act; § 13.1325 *Source or origin:* Maker or seller, etc.: *Wool Products Labeling Act.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1845 *Composition:* Wool Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* Wool Products Labeling Act; § 13.1900 *Source or origin:* Wool Products Labeling Act: *Maker or seller, etc.*[1]

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U. S. C. 45, 68-68c) [Cease and desist order, Cenu Fibres, Ltd., et al., New York, N. Y., Docket 6512, June 16, 1956]

In the Matter of Cenu Fibres, Ltd., a Corporation, and Philip Hausfeld, Individually and as an Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission—charging a corporate manufacturer and its responsible officer, with principal place of business in New York City, with misbranding wool fabrics in violation of the Wool Products Labeling Act, through failing to attach tags, labels, etc., bearing information as required by the act—and an agreement containing consent order to cease and desist.

On this basis, the hearing examiner made his initial decision and order to cease and desist which, by order of June 15, 1956, became, on June 16, the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondents Cenu Fibres, Ltd., a corporation, and Philip Hausfeld, individually and as an officer of said corporation, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of any "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool", "reprocessed wool" or "reused wool" as those terms are defined in said Act, do forthwith cease and desist from misbranding such products by:

Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products of any non-fibrous loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool products or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939;

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939, and

Provided further, That nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Cenu Fibres, Ltd., a corporation, and Philip Hausfeld, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: June 15, 1956.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 56-5195; Filed, June 29, 1956; 8:48 a. m.]

[Docket 6489]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

NATIONAL FIRE SAFETY COUNSELLORS ET AL.

Subpart—*Coercing and intimidating:* § 13.350 *Customers or prospective customers:* To purchase, make payment, or support product or service: *By utilizing scarce tactics.*[1] Subpart—*Misrepresenting oneself and goods*—Business status, advantages or connections: § 13.1425 *Government connection;* § 13.1430 *Government indorsement, sanction or sponsorship;* § 13.1490 *Nature, in general;* [*Misrepresenting oneself and goods*]—Goods: § 13.1663 *Individual's special selection or situation;* § 13.1760 *Terms and conditions;* [*Misrepresenting oneself and goods*]—Prices: § 13.1778 *Additional costs unmentioned.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1882 *Prices;*[1] § 13.1905 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, National Fire Safety Counsellors et al., Irvington, N. J., Docket 6489, June 12, 1956]

In the Matter of National Fire Safety Counsellors, a Corporation, and Robert L. Berko and Howard Berko, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission—charging a corporation and its officers, with place of business in Irvington, N. J., engaged in the sale through house-to-house canvassers of a fire detection or fire alarm system for homes, with representing falsely that their salesmen were connected with the Federal Government or a civic organization, that they were only demonstrators, and desired to make fire prevention talks or demonstrations; that prospects and their homes were specially selected for demonstration purposes; that the total cost of the system would be little more than the credit allowed for supplying names of other prospects, and that demonstrations in the homes of referred prospects were not necessary before such credit was given; that the contract or promissory note for the purchase price would not be discounted and that carrying charges would not be added to the total cost; and that newspaper clippings or horror pictures of fire fatalities represented what the prospect could expect in his home if he did not purchase the system—and an agreement between the parties providing for entry of a consent order.

On this basis, the hearing examiner made his initial decision and order to cease and desist, which, on June 12, 1956, became the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents National Fire Safety Counsellors, a corporation, its officers, agents, representatives and employees, and Robert L. Berko and Howard Berko, individually and as officers of said corporation, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of fire detection or fire alarm systems, do forthwith cease and desist from representing, directly or by implication:

1. That respondents or any of their salesmen or employees are in any way

[1] New.

connected with, or endorsed or approved by, the United States Government, any state Government, or any civic association;

2. That respondents' salesmen only desire to make fire prevention talks or demonstrations;

3. That respondents' representatives are not salesmen but are only demonstrators;

4. That prospective purchasers have been specially selected, or that their homes have been selected for demonstration purposes;

5. That the total cost or the cost per month of their fire detection device or fire alarm system is any less than the actual cost, without reference to credit for referrals;

6. That no demonstrations in the homes of referred prospective customers are necessary before credit is given to the supplier of said referrals;

7. That the identity of those supplying names of prospective purchasers will not be revealed to said prospective purchasers;

8. That the contract or promissory note for the purchase price of the system will not be discounted or failing to reveal that such will be discounted;

9. That carrying charges will not be added to the total cost of the system or failing to reveal that carrying charges will be added;

10. That newspaper clippings or horror pictures of fire fatalities represent what the prospective purchaser may expect in his home if he does not purchase respondents' products, or otherwise utilize such scare tactics to induce the purchase of respondents' products.

By "Decision of the Commission," etc., report of compliance was required as follows:

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

Issued: June 12, 1956.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 56-5205; Filed, June 29, 1956; 8:49 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54120]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

EXAMINATION OF PUREBRED DOGS AND CATS

The Department of Agriculture has requested that customs officers at all ports of first customs arrival in the United States be authorized to take the descriptions of purebred dogs and cats for which free entry is likely to be requested under paragraph 1606, Tariff Act of 1930, as amended, in cases where animals arrive by plane, whether or not the animals are accompanied by the owner.

Accordingly § 10.70 (c) of the Customs Regulations is hereby amended by deleting "coast or border" from the first sentence and by inserting a new sentence preceding the citation of authority as follows: "At all airports, customs officers shall make the examination of dogs and cats, whether or not accompanied by the owners, if there is no inspector of the Department of Agriculture stationed there or on duty at the time of arrival."

(R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624. Interprets or applies sec. 201 (par. 1606), 46 Stat. 672, as amended; 19 U. S. C. 1201 (par. 1606))

[SEAL] RALPH KELLY, *Commissioner of Customs.*

Approved: June 22, 1956.

DAVID W. KENDALL, *Acting Secretary of the Treasury.*

[F. R. Doc. 56-5209; Filed, June 29, 1956; 8:50 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6186]

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

SCHOLARSHIPS AND FELLOWSHIP GRANTS

On September 29, 1955, notice of proposed rule making regarding the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, under section 117 of the Internal Revenue Code of 1954, was published in the FEDERAL REGISTER (20 F. R. 7257). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

AUTHORITY: §§ 1.117 to 1.117-4, issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

§ 1.117 *Statutory provisions; scholarships and fellowship grants.*

SEC. 117. *Scholarships and fellowship grants*—(a) *General rule.* In the case of an individual, gross income does not include—

(1) Any amount received—

(A) As a scholarship at an educational institution (as defined in section 151 (e) (4)), or

(B) As a fellowship grant,

including the value of contributed services and accommodations; and

(2) Any amount received to cover expenses for—

(A) Travel,

(B) Research,

(C) Clerical help, or

(D) Equipment,

which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

(b) *Limitations*—(1) *Individuals who are candidates for degrees.* In the case of an individual who is a candidate for a degree at an educational institution (as defined in section 151 (e) (4)), subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

(2) *Individuals who are not candidates for degrees.* In the case of an individual who is not a candidate for a degree at an educational institution (as defined in section 151 (e) (4)), subsection (a) shall apply only if the condition in subparagraph (A) is satisfied and then only within the limitations provided in subparagraph (B).

(A) *Conditions for exclusion.* The grantor of the scholarship or fellowship grant is an organization described in section 501 (c) (3) which is exempt from tax under section 501 (a), the United States, or an instrumentality or agency thereof, or a State, a Territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

(B) *Extent of exclusion.* The amount of the scholarship or fellowship grant excluded under subsection (a) (1) in any taxable year shall be limited to an amount equal to $300 times the number of months for which the recipient received amounts under the scholarship or fellowship grant during such taxable year, except that no exclusion shall be allowed under subsection (a) after the recipient has been entitled to exclude under this section for a period of 36 months (whether or not consecutive) amounts received as a scholarship or fellowship grant while not a candidate for a degree at an educational institution (as defined in section 151 (e) (4)).

§ 1.117-1 *Exclusion of amounts received as a scholarship or fellowship grant*—(a) *In general.* Any amount received by an individual as a scholarship at an educational institution or as a fellowship grant, including the value of contributed services and accommodations, shall be excluded from the gross income of the recipient, subject to the limitations set forth in section 117 (b) and § 1.117-2. The exclusion from gross income of an amount which is a scholarship or fellowship grant is controlled solely by section 117. Accordingly, to the extent that a scholarship or a fellowship grant exceeds the limitations of section 117 (b) and § 1.117-2, it is includible in the gross income of the recipient notwithstanding the provisions of section 102 relating to exclusion from gross income of gifts, or section 74 (b) relating to exclusion from gross income of certain prizes and awards. For definitions see § 1.117-3.

(b) *Exclusion of amounts received to cover expenses.* (1) Subject to the limitations provided in subparagraph (2) of this paragraph, any amount received by an individual which is specifically designated to cover expenses for travel (including meals and lodging while traveling and an allowance for travel of the individual's family), research, clerical help, or equipment, is excludable from gross income provided that such expenses are incident to a scholarship or fellowship grant which is excludable from gross income under section 117 (a) (1). If, however, only a portion of a scholarship or fellowship grant is excludable from gross income under section 117 (a) (1) because of the part-time employment limitation contained in section 117 (b) (1) or because of the expiration of the 36 month period described in section 117 (b) (2) (B), only the amount received to cover expenses incident to such excludable portion is excludable from gross income. The requirement that these expenses be incident to the scholarship or the fellowship grant means that the expenses of travel, research, clerical help, or equipment, must be incurred by the individual in order to effectuate the purpose for which the scholarship or the fellowship grant was awarded.

(2) The exclusion provided under subparagraph (1) of this paragraph is applicable only to the extent that the amount received for travel, research, clerical help, or equipment, is actually expended for such expenses by the recipient during the term of the scholarship or fellowship grant and within a reasonable time before and after such term.

(3) The portion of any amount received to cover the expenses described in subparagraph (1) of this paragraph which is not actually expended for such expenses within the exclusion period described in subparagraph (2) of this paragraph shall, if not returned to the grantor within this period, be included in the gross income of the recipient for the taxable year in which such exclusion period expires.

§ 1.117-2 *Limitations*—(a) *Individuals who are candidates for degrees*—(1) *In general.* Under the limitations provided by section 117 (b) (1) in the case of an individual who is a candidate for a degree at an educational institution, the exclusion from gross income shall not apply (except as otherwise provided in subparagraph (2) of this paragraph) to that portion of any amount received as payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or fellowship grant. Payments for such part-time employment shall be included in the gross income of the recipient in an amount determined by reference to the rate of compensation ordinarily paid for similar services performed by an individual who is not the recipient of a scholarship or a fellowship grant. A typical example of employment under this subparagraph is the case of an individual who is required, as a condition to receiving the scholarship or the fellowship grant, to perform part-time teaching services. A requirement that the individual shall furnish periodic reports to the grantor of the scholarship or the fellowship grant for the purpose of keeping the grantor informed as to the general progress of the individual shall not be deemed to constitute the performance of services in the nature of part-time employment.

(2) *Exception.* If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving the degree, such teaching, research, or other services on the part of the recipient of a scholarship or fellowship grant who is a candidate for such degree shall not be regarded as part-time employment within the meaning of this paragraph. Thus, if all candidates for a particular education degree are required, as part of their regular course of study or curriculum, to perform part-time practice teaching services, such services are not to be regarded as part-time employment within the meaning of this paragraph.

(b) *Individuals who are not candidates for degrees*—(1) *Conditions for exclusion.* In the case of an individual who is not a candidate for a degree at an educational institution, the exclusion from gross income of an amount received as a scholarship or a fellowship grant shall apply (to the extent provided in subparagraph (2) of this paragraph) only if the grantor of the scholarship or the fellowship grant is an organization described in section 501 (c) (3) which is exempt from tax under section 501 (a), the United States, or an instrumentality or agency thereof, or a State, a Territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

(2) *Extent of exclusion.* (i) In the case of an individual who is not a candidate for a degree, the amount received as a scholarship or a fellowship grant which is excludable from gross income under section 117 (a) (1) shall not exceed an amount equal to $300 times the number of months for which the recipient received amounts under the scholarship or fellowship grant during the taxable year. In determining the number of months during the period for which the recipient received amounts under a scholarship or fellowship grant, computation shall be made on the basis of whole calendar months. A whole calendar month means a period of time terminating with the day of the succeeding month numerically corresponding to the day of the month of its beginning, less one, except that if there be no corresponding day of the succeeding month the period terminates with the last day of the suceeding month. For purposes of this computation a fractional part of a calendar month consisting of a period of time including 15 days or more shall be considered to be a whole calendar month and a fractional part of a calendar month consisting of a period of time including 14 days or less shall be disregarded. For example, if an individual receives a fellowship grant on September 13 which is to expire on June 12 of the following year, the grant shall be considered to have extended for a period of 9 months. If in the preceding example the grant expired on June 27, instead of June 12, the grant shall be considered to have extended for a period of 10 months.

(ii) No exclusion shall be allowed under section 117 (a) (1) to an individual who is not a candidate for a degree after the recipient has, as an individual who is not a candidate for a degree, been entitled to an exclusion under that section for a period of 36 months. This limitation applies if the individual has received any amount which was either excluded or excludable from his gross income under section 117 (a) (1) for any prior 36 months, whether or not consecutive. For example, if the individual received a fellowship grant of $7,200 for 3 years (which he elected to receive in 36 monthly installments of $200), his exclusion period would be exhausted even though he did not in any of the 36 months make use of the maximum exclusion. Accordingly, such individual would be entitled to no further exclusion from gross income with respect to any additional grants which he may receive as an individual who is not a candidate for a degree.

(iii) If an individual who is not a candidate for a degree receives amounts from more than one scholarship or fellowship grant during the taxable year, the total amounts received in the taxable year shall be aggregated for the purpose of computing the amount which may be excludable from gross income for such taxable year. If amounts are received from more than one scholarship or fellowship grant during the same month or months within the taxable year, such month or months shall be counted only once for the purpose of determining the number of months for which the individual received such amounts under the scholarships or fellowship grants during the taxable year. For example, if an individual receives a fellowship grant from one source for the months of January to June of the taxable year and also receives a fellowship grant from another source for the months of March through December of the same taxable year, he shall be considered to have received amounts for 12 months of the taxable year. See example (4) in subparagraph (3) for further illustration.

(3) *Examples.* The application of this paragraph may be further illustrated by the following examples, it being assumed that in each example the grantor is a grantor who is described in section 117 (b) (2) (A) and subparagraph (1) of this paragraph:

Example (1). B, an individual who files his return on the calendar year basis, is awarded a post-doctorate fellowship grant in March 1955. The grant is to commence on September 1, 1955, and is to end on May 31, 1956, so that it will extend over a period of 9 months. The amount of the fellowship grant is $4,500 and B receives this amount in monthly installments of $500 on the first day of each month commencing September 1, 1955. During the taxable year 1955, B receives a total of $2,000 with respect to the 4-month period September through December, inclusive. He may exclude $1,200 from gross income in the taxable year 1955 ($300 X 4) and must include the remaining $800 in gross income for that year. For the year 1956, he will exclude $1,500 ($300 X 5) from gross income with respect to the $2,500 which he receives in that year and must include in gross income $1,000.

Example (2). Assume the same taxpayer as in example (1) except that B receives the full amount of the grant ($4,500) on September 1, 1955. Since the amount received in the taxable year 1955 is for the full term of the fellowship grant (9 months), B may exclude $2,700 ($300 X 9) from gross income for the taxable year 1955. The remaining $1,800 must be included in gross income for that year.

Example (3). C, an individual who files his return on the calendar year basis, is awarded a post-doctorate fellowship grant in March 1955. The amount of the grant is $4,500 for a period commencing on September 1, 1955, and ending 24 months thereafter. C receives the full amount of the grant on September 1, 1955. C may exclude from gross income for the taxable year 1955, the full amount of the grant ($4,500) since this amount does not exceed an amount equal to $300 times the number of months (24) for which he received the amount of the grant during that taxable year.

Example (4). (i) F, an individual who files his return on the calendar year basis, is awarded a post-doctorate fellowship grant (Grant A) for two years commencing June 1, 1955, in the amount of $4,800. He elects to receive his grant in monthly installments of $200 commencing June 1, 1955. On March 1, 1956, F is awarded another post-doctorate fellowship grant (Grant B) for two years commencing September 1, 1956, in the amount of $7,200. He elects to receive this grant in monthly installments of $300 commencing September 1, 1956.

(ii) For the calendar year 1955, F receives $1,400 from Grant A which he is entitled to exclude from gross income since it does not exceed an amount equal to $300 times the number of months (7) for which he received amounts under the grant in the taxable year.

(iii) For the calendar year 1956, F receives $3,600 as the aggregate of amounts received under fellowship grants ($2,400 from Grant A and $1,200 from Grant B). F will be entitled to exclude the entire amount of $3,600 from gross income for the calendar year 1956 since such amount does not exceed an amount equal to $300 times the number of months (12) for which he received amounts under the grants in the taxable year.

(iv) For the calendar year 1957, F receives $4,600 as the aggregate of amounts received under fellowship grants ($1,000 from Grant A and $3,600 from Grant B). F will be entitled to exclude $3,600 ($300 $\times$ 12) from gross income for the calendar year 1957 and he will have to include $1,000 in gross income.

(v) For the calendar year 1958, F receives $2,400 from Grant B. F is entitled to exclude $1,500 ($300 $\times$ 5) from gross income for the calendar year 1958 and he will have to include $900 in gross income. While F receives amounts under fellowship Grant B for 8 months during the calendar year 1958, he is limited to an amount equal to $300 times 5 (months) because of the fact that he has already been entitled to exclude (and has in fact excluded) amounts received as a fellowship grant for a period of 31 months. Accordingly, he can only exclude amounts received under the fellowship grant for 5 months during the calendar year 1958, because of the 36-month limitation period. The fact that he was entitled to exclude only $1,400 ($200 a month for 7 months) instead of the maximum amount of $2,100 ($300 $\times$ 7) in 1955, is immaterial and the limitation period of 36 months is applicable.

(vi) The following chart illustrates the computation of the number of months for which F received amounts under the fellowship grants during the respective taxable years and the computation of the total amounts received under the fellowship grants during each taxable year:

Period for which received and source	Number of months	Amounts received
1955:		
June 1 to December 31	7	
Grant A		$1,400
Grant B		None
Aggregate	7	1,400
1956:		
January 1 to August 31	8	
Grant A		1,600
Grant B		None
September 1 to December 31	4	
Grant A		800
Grant B		1,200
Aggregate	12	3,600
1957:		
January 1 to May 31	5	
Grant A		1,000
Grant B		1,500
June 1 to December 31	7	
Grant A		None
Grant B		2,100
Aggregate	12	4,600
1958:		
January 1 to August 31	8	
Grant A		None
Grant B		2,400
Aggregate	8	2,400

§ 1.117-3 *Definitions*—(a) *Scholarship*. A scholarship generally means an amount paid or allowed to, or for the benefit of, a student, whether an undergraduate or a graduate, to aid such individual in pursuing his studies. The term includes the value of contributed services and accommodations (see paragraph (d) of this section) and the amount of tuition, matriculation, and other fees which are furnished or remitted to a student to aid him in pursuing his studies. The term also includes any amount received in the nature of a family allowance as a part of a scholarship. However, the term does not include any amount provided by an individual to aid a relative, friend, or other individual in pursuing his studies where the grantor is motivated by family or philanthropic considerations. If an educational institution maintains or participates in a plan whereby the tuition of a child of a faculty member of such institution is remitted by any other participating educational institution attended by such child, the amount of the tuition so remitted shall be considered to be an amount received as a scholarship.

(b) *Educational institution*. For definition of "educational institution" section 117 adopts the definition of that term which is prescribed in section 151 (e) (4). Accordingly, for purposes of section 117 the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on. See section 151 (e) (4) and regulations thereunder.

(c) *Fellowship grant*. A fellowship grant generally means an amount paid or allowed to, or for the benefit of, an individual to aid him in the pursuit of study or research. The term includes the value of contributed services and accommodations (see paragraph (d) of this section) and the amount of tuition, matriculation, and other fees which are furnished or remitted to an individual to aid him in the pursuit of study or research. The term also includes any amount received in the nature of a family allowance as a part of a fellowship grant. However, the term does not include any amount provided by an individual to aid a relative, friend, or other individual in the pursuit of study or research where the grantor is motivated by family or philanthropic considerations.

(d) *Contributed services and accommodations*. The term "contributed services and accommodations" means such services and accommodations as room, board, laundry service, and similar services or accommodations which are received by an individual as a part of a scholarship or fellowship grant.

(e) *Candidate for a degree*. The term "candidate for a degree" means an individual, whether an undergraduate or a graduate, who is pursuing studies or conducting research to meet the requirements for an academic or professional degree conferred by colleges or universities. It is not essential that such study or research be pursued or conducted at an educational institution which confers such degrees if the purpose thereof is to meet the requirements for a degree of a college or university which does confer such degrees. A student who receives a scholarship for study at a secondary school or other educational institution is considered to be a "candidate for a degree."

§ 1.117-4 *Items not considered as scholarships or fellowship grants*. The following payments or allowances shall not be considered to be amounts received as a scholarship or a fellowship grant for the purpose of section 117:

(a) *Educational and training allowances to veterans*. Educational and training allowances to a veteran pursuant to the Servicemen's Readjustment Act of 1944 or the Veterans' Readjustment Assistance Act of 1952.

(b) *Allowances to members of the Armed Forces of the United States*. Tuition and subsistence allowances to members of the Armed Forces of the United States who are students at an educational institution operated by the United States or approved by the United States for their education and training, such as the United States Naval Academy and the United States Military Academy.

(c) *Amounts paid as compensation for services or primarily for the benefit of the grantor*. (1) Except as provided in § 1.117-2 (a), any amount paid or allowed to, or on behalf of, an individual to enable him to pursue studies or research, if such amount represents either compensation for past, present, or future employment services or represents payment for services which are subject to the direction or supervision of the grantor.

(2) Any amount paid or allowed to, or on behalf of, an individual to enable him to pursue studies or research primarily for the benefit of the grantor.

However, amounts paid or allowed to, or on behalf of, an individual to enable him to pursue studies or research are considered to be amounts received as a scholarship or fellowship grant for the purpose of section 117 if the primary purpose of the studies or research is to further the education and training of the recipient in his individual capacity and the amount provided by the grantor for such purpose does not represent compensation or payment for the services described in subparagraph (1) of this paragraph. Neither the fact that the recipient is required to furnish reports of his progress to the grantor, nor the fact that the results of his studies or research may be of some incidental benefit to the grantor shall, of itself, be considered to destroy the essential character of such amount as a scholarship or fellowship grant.

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

Approved: June 26, 1956.

DAN THROOP SMITH,
Special Assistant to the Secretary in Charge of Tax Policy.

[F. R. Doc. 56-5182; Filed, June 29, 1956; 8:45 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicles

[Ex Parte No. MC-40]

PART 193—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

RESERVOIRS REQUIRED

At a general session of the Interstate Commerce Commission held at its offices in Washington, D. C., on the 25th day of June A. D. 1956.

It appearing that by our order of May 21, 1956, in this proceeding as amended (21 F. R. 3797; 21 F. R. 4232) we prescribed additional brake regulations applying to combination vehicles, the said order to be effective June 30, 1956;

It further appearing that information has been furnished us by major suppliers of parts and accessories necessary for safe operation to the effect that valves necessary to enable motor carriers to comply with certain provisions of § 193.50 cannot be made available in sufficient quantity to permit compliance with that section on the effective date;

It is ordered, that § 193.50 *Reservoirs required* be, and it is hereby, amended by deleting the entire last sentence and substituting in lieu thereof the following: "In addition, on and after January 1, 1957, every truck-tractor and every truck used for towing other vehicles shall when equipped with air or vacuum reservoirs as required by this section, and regardless of date of manufacture, have such air or vacuum reservoirs so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum the air or vacuum supply in the reservoir shall not be depleted by the leak or failure."

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

(49 Stat. 546, as amended; 49 U. S. C. 304)

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 56-5202; Filed, June 29, 1956; 8:49 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 105—ALASKA PENINSULA AREA

WEEKLY CLOSED PERIOD

Basis and purpose. Since the midweek closed period in the Alaska Peninsula area will fall on the opening date for fishing, it has been determined that the following relaxation can be permitted without jeopardizing proper conservation.

Therefore, effective immediately upon publication in the FEDERAL REGISTER, § 105.5 is amended in paragraph (c) by deleting the dates "July 5" and "July 4" and substituting in lieu thereof "July 3" and "July 2" respectively.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

JOHN L. FARLEY,
Director.

JUNE 27, 1956.

[F. R. Doc. 56-5263; Filed, June 28, 1956; 4:34 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

INSURANCE CONTRACTS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

The following regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, are hereby prescribed under section 264 of the Internal Revenue Code of 1954:

§ 1.264 *Statutory provisions; items not deductible; certain amounts paid in connection with insurance contracts.*

SEC. 264. *Certain amounts paid in connection with insurance contracts*—(a) *General rule.* No deduction shall be allowed for—

(1) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

(2) Any amount paid or accrued on indebtedness incurred or continued to purchase or carry a single premium life insurance, endowment, or annuity contract.

Paragraph (2) shall apply in respect of annuity contracts only as to contracts purchased after March 1, 1954.

(b) *Contracts treated as single premium contracts.* For purposes of subsection (a) (2), a contract shall be treated as a single premium contract—

(1) If substantially all the premiums on the contract are paid within a period of 4 years from the date on which the contract is purchased, or

(2) If an amount is deposited after March 1, 1954, with the insurer for payment of a substantial number of future premiums on the contract.

§ 1.264-1 *Premiums on life insurance taken out in a trade or business*—(a) *When premiums are deductible.* Premiums paid by a taxpayer on a life insurance policy are not deductible from the taxpayer's gross income, even though they are trade or business expenses, if they are paid on a life insurance policy covering the life of any officer or employee of the taxpayer, or any person (including the taxpayer) who is financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary of the policy. For additional provisions relating to the nondeductibility of premiums paid on life insurance policies (whether under section 162 or any other section of the Internal Revenue Code), see section 262, relating to personal, living, and family expenses, and section 265, relating to expenses allocable to tax-exempt income.

(b) *When taxpayer is a beneficiary.* If a taxpayer takes out a policy for the purpose of protecting himself from loss in the event of the death of the insured, the taxpayer is considered a beneficiary directly or indirectly under the policy. However, if the taxpayer is not a beneficiary under the policy, the premiums so paid will not be disallowed as deductions merely because the taxpayer may derive a benefit from the increased efficiency of the officer or employee insured. See section 162 and the regulations thereunder. If a taxpayer insures his own life for the benefit of any person financially interested in any trade or business carried on by the taxpayer, the taxpayer is considered to be a beneficiary directly or indirectly under the policy. For example, a taxpayer is considered a beneficiary under a policy where he, as a principal member of a partnership, takes out an insurance policy on his own life irrevocably designating his partner as the sole beneficiary in order to induce his partner to retain his investment in the partnership. Whether or not the taxpayer is a beneficiary under such a policy, the proceeds of the policy paid by reason of the death of the insured may be excluded from gross income whether the beneficiary is an individual or a corporation, except in the case of (1) certain transferees, as provided in section 101 (a) (2); (2) portions of amounts of life insurance proceeds received at a date later than death under the provisions of section 101 (d); and (3) life insurance policy proceeds which are includible in the gross income of a husband or wife under section 71 (relating to alimony) or section 682 (relating to income of an estate or trust in case of divorce, etc.). (See section 101 (e).) For further reference, see, generally, section 101 and the regulations thereunder.

§ 1.264-2 *Single premium life insurance, endowment, or annuity contracts.* Amounts paid or accrued on indebtedness incurred or continued, directly or indirectly, to purchase or to continue in effect a single premium life insurance or endowment contract, or a single premium annuity contract purchased after March 1, 1954, are not deductible under section 163 or any other provision of chapter 1. This prohibition applies even though the insurance is not on the life of the taxpayer and regardless of whether or not the taxpayer is the annuitant or payee of such annuity contract. A contract is considered a single premium life insurance, endowment, or annuity contract, for the purposes of this section, if substantially all the premiums on the contract are paid within four years from the date on which the contract was purchased, or if an amount is deposited after March 1, 1954, with the insurer for payment of a substantial number of future premiums on the contract.

[F. R. Doc. 56-5210; Filed, June 29, 1956; 8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 927]

HANDLING OF MILK IN NEW YORK METROPOLITAN MARKETING AREA

AMENDMENT TO DECISION WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE AGREEMENT AND ORDER, AS AMENDED, AND OPPORTUNITY TO FILE EXCEPTIONS

The decision issued on June 15, 1956, and published in the FEDERAL REGISTER on June 20, 1956 (21 F. R. 4317; F. R. Doc. 56-4848), relating to proposed amendment of the tentative agreement and the order, as amended, regulating the handling of milk in the New York metropolitan marketing area, is hereby amended as follows (references are to the FEDERAL REGISTER for June 20, 1956):

1. Delete the fifth paragraph beginning in the second column on page 4320 and substitute in lieu thereof the following: "A motion was filed by the Milk Dealers Association of Metropolitan New York and Sheffield Farms Co., Inc., to vacate and set aside so much of this decision as relates to issues number 2 and 4; to sever said issue number 2 from the other issues in this proceeding; and to issue a recommended decision as to issue number 2 and afford an opportunity to file exceptions thereto.

"The said motion is hereby denied insofar as it relates to the findings and conclusions of this decision with respect to the month of July 1956. The findings and conclusions herein are fully justified by the evidence in the hearing record and the proposed amendment is necessary to effectuate the policy of the act with respect to milk delivered by producers during the month of July 1956. Insofar as such findings and conclusions relate to periods beginning on and after August 1, 1956, this decision shall be considered a tentative decision and interested parties are hereby afforded an opportunity to file exceptions thereto. Such exceptions may be filed in quadruplicate with the Hearing Clerk, U. S. Department of Agriculture, Washington 25, D. C., not later than July 10, 1956."

2. Delete the first paragraph in the second column on page 4321, and insert in lieu thereof the following: "*Order relative to handling.* It is therefore ordered, that for the month of July 1956 the handling of milk in the New York metropolitan milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:"

Filed at Washington, D. C., this 27th day of June 1956.

E. L. PETERSON,
Acting Secretary.

[F. R. Doc. 56-5235; Filed, June 29, 1956; 8:55 a. m.]

[7 CFR Part 1000]

[Docket No. AO-266]

HANDLING OF MILK IN CHATTANOOGA, TENN., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Chattanooga, Tennessee, May 17-25, 1955, pursuant to notice thereof which was issued on April 13, 1955 (20 F. R. 2525).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on February 7, 1956, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. Said decision containing notice of opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on February 10, 1956 (21 F. R. 956).

Within the period reserved therefor, interested parties filed exceptions to certain of the findings, conclusions and actions recommended by the Deputy Administrator. In arriving at the findings, conclusions and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

To the extent that suggested findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

The material issues of record related to:

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

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

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

(a) The scope of regulation,

(b) The classification of milk,

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

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

(e) Administrative provisions.

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

(1) *Character of commerce.* All milk which will be regulated under the proposed marketing agreement and order is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products.

The marketing area specified in the order proposed herein includes all the territory within three counties located in South-Eastern Tennessee. Within this area there is a continuous and substantial interstate commerce in the procurement of milk from producers and the sale of fluid milk and its products to consumers. Distributing plants located in Tennessee regularly deliver fluid milk products in Catoosa, Walker, Dade and five other counties in the State of Georgia. Likewise, distributing plants in such Georgia cities as Rossville and Chickamauga regularly distribute fluid milk products in Hamilton, Bradley, Marion, Polk and Rhea Counties, all in the State of Tennessee, and DeKalb and Jackson Counties, in the State of Alabama. Thus, Chattanooga area handlers are in competition with each other across state lines, and with handlers located in other parts of Georgia and in Alabama as well, in the sale of milk and milk products at the wholesale and retail levels.

The record shows that producers supplying milk to plants in the marketing area are located in two counties in Alabama, three counties in Georgia, and eleven counties in Tennessee. Milk produced in these states is commingled in handlers' plants prior to being processed and sold throughout the areas described above. In addition, this general supply area is intermingled with that of Birmingham, Alabama and Atlanta, Georgia; and with that of the Knoxville, Tennessee, marketing area (which is regulated by Federal Order No. 88, as amended). Many producers supplying Chattanooga area handlers have the alternative of shipping milk to one or more of these markets, and some have so shifted their outlets in recent years.

Substantial quantities of such manufactured dairy products as cottage cheese and ice cream are distributed in the marketing area from sources located in more than one state. Ice cream and cottage cheese is distributed within the area after it is processed and manufactured in company-affiliated plants located in the Knoxville, Tennessee, market (a Federally-regulated area). Also, seasonal surpluses of locally produced Grade A milk are used in the manufacture of such dairy products as nonfat dry milk solids, which in turn are sold in competition with similar products manufactured in areas outside the State of Tennessee.

(2) *The need for regulation.* The marketing and pricing conditions in the Chattanooga, Tennessee, marketing area require the issuance of a Federal milk marketing agreement and order to establish and maintain orderly marketing conditions and effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

The problems encountered by producers in the Chattanooga marketing area are typical of those occurring in unregulated fluid milk markets where producers are unorganized or where producer cooperative associations have been unsuccessful in establishing effective bargaining relationships with handlers. The Federal milk marketing order proposed herein for Chattanooga, Tennessee, will implement the declared congressional policy of establishing and maintaining orderly marketing conditions by:

(a) Providing a regular and dependable method for determining minimum prices to producers at levels comparable to those contemplated under the act;

(b) Establishing uniform prices to handlers for milk received from producers according to a classification plan based on the use made of such milk by the handler;

(c) Providing an impartial audit of handlers' records of receipts and utilization to further insure uniform prices for milk purchased;

(d) Establishing uniform returns to producers supplying the area and insuring that the lower returns from the sale of reserve milk are shared equitably among all producers;

(e) Providing all producers with a means whereby the weighing and testing of their milk can be checked to insure accuracy;

(f) Establishing uniform rules for the operation of a market-wide base and excess plan that will (i) acquaint producers with the rules for establishing bases and determining base and excess prices; and (ii) encourage producers to modify seasonal fluctuations in the production of milk; and

(g) Providing market-wide information on the receipts, sales and other data relating to milk market problems in the area.

The hearing record reveals the chaotic marketing conditions in the Chattanooga area created by the wide variety of classification and pricing plans used by different distributors serving the area, the resultant lack of uniformity in prices paid producers for milk, and the ineffectiveness of the producers in protecting themselves against sharp cuts in producer prices during periods of milk price wars among distributors.

These local conditions were aggravated by the sale of milk purchased at distress prices by out-of-area distributors and sold in the proposed marketing area in competition with milk purchased from producers regularly supplying the market. Local handlers were forced to meet this competition by passing the effects of lower resale prices back to individual producers in the form of lower producer prices. The Chattanooga Area Milk Producers Association, the proponent cooperative association of producers in the marketing area, had to meet the situation by granting distributors buying from them price reductions, and by shifting increased quantities of displaced Grade A milk into lower-valued manufactured products. These actions have lowered prices to producers to the point where a continuous and adequate supply of pure and wholesome milk for the area is threatened. The classification and pricing plan of a Federal milk marketing order is the only available means of insuring the uniformity of payments for milk by handlers which is needed to restore and maintain orderly marketing conditions.

The variety of systems used by distributors in purchasing milk has created a wide variation in prices received by producers supplying handlers in and between parts of the marketing area. For a number of years prior to 1953, the producers' association stabilized local marketing conditions by supplying Chattanooga handlers with their daily requirements of Grade A milk and assuming the responsibility for handling any remaining surplus. However, this plan became inadequate by 1953 because (1) only a part of the local handlers supplying the area were under contract with the association and (2) increasing amounts of milk, some of it surplus to other areas, was being sold in the local area. Some handlers operating under contract with the association recognized the vulnerability of their marketing situation by at first refusing to renew their contracts that expired in 1954. They did sign a contract for another year, however, after (1) price concessions by producers and (2) assurances that the chaotic marketing conditions would be corrected locally, or steps taken to secure a Federal milk order to correct them. The classification and pricing plan of the attached order is the only available means of establishing uniform prices among handlers for milk received from producers according to the use made of such milk by each handler. This use-classification plan is equitable and will apply similarly to all handlers. To insure equity among handlers and full accountability to producers, the use-classification plan must be supplemented by an impartial audit of handlers' records of receipts and utilization.

Much of the difference in prices realized by producers throughout the area arises because member-producers of the Chattanooga Area Milk Producers Association provide a major part of the reserve milk for the market and, consequently, carry the major burden of the lower prices realized from the sale of this milk in the form of manufactured dairy products. During 1953 and 1954 handlers participating in the association-operated market-wide pool used over 2 million pounds of other source milk in their operations. At the same time, the producers' association had to market as surplus over 23 million pounds of milk. The market-wide pooling provisions of the order proposed herein will provide a means of insuring uniform returns to producers and equitable sharing of the burden of providing the necessary quantities of reserve milk.

Many producers supplying handlers in parts of the marketing area have no effective means of insuring the accuracy of the weights and tests of their regular deliveries of producer milk. In addition, only part of the handlers in the market permit the auditing of their records for the purpose of establishing the accuracy of (1) the utilization of producer receipts according to a classification plan or (2) proportions of milk paid for as base and surplus under the base-surplus plan now in use in certain parts of the marketing area. Certain handlers, under contract to the association, permitted the association to audit the reports of receipts and utilization submitted to it by them. However, the scope of the audits and the number and size of the handlers involved precluded effective operation of the program. There is need for a Federal milk order to correct these inequities.

A substantial number of producers have no regular and dependable method for participating in the price determining decisions that govern the sale of their milk. Even the producers represented by the cooperative association have been unable to establish a satisfactory classification plan among handlers and protect themselves against the depressed prices resulting from the chaotic marketing conditions mentioned above. There is need for a Federal order to establish a complete and equitable classification plan that applies to all handlers, and to supplement this plan with a formula for determining minimum prices to producers equivalent to those contemplated under the enabling act. Such prices, together with the classified-use plan of the attached order, should insure a sufficient quantity of pure and wholesome milk for the marketing area, protect the interests of producers, handlers and consumers, and be in the public interest.

Many of the marketing difficulties stem from a lack of complete and accurate information about the supply and demand for milk in the area. The Federal milk order proposed herein will make such information available to all interests in the market and will provide a reliable basis fordecisions on prices and other marketing problems encountered. The availability and dissemination of accurate market-wide information about the fluid milk market will tend to create confidence in the marketing system that does not exist under present conditions.

(3) *Order provisions*—(a) *Scope of regulation*. Federal milk orders achieve marketing and pricing stability by using techniques authorized by the Agricultural Marketing Agreement Act of 1937, as amended. Important among these techniques are the requirements that (1) regulated distributors (handlers) pay at least specified minimum prices to producers in accordance with a classified-use plan established in an order, and (2) these payments be distributed to each producer on a uniform basis through either an individual-handler pool or a market-wide pool. Under the circumstances, it is important to establish clearly which plants and which milk will be subject to all or part of the pricing provisions of the order and, in turn, which producers will participate in the distribution of returns through the market-wide pool. To identify such persons and to facilitate reference to them throughout the proposed order, such terms as "marketing area", "producer", "pool plant", "nonpool plant", "handler", "producer milk", and "other source milk" are defined and are used herein.

Marketing area. The Chattanooga, Tennessee, marketing area should be defined to include all of the territory within the boundaries of Hamilton, McMinn and Bradley Counties, all in the State of Tennessee.

Fluid milk products sold for consumption in this area must be approved by health authorities who are governed by health ordinances, practices and procedures generally patterned after the United States Public Health Service Milk Ordinance and Code. Within this defined area the health standards are substantially equal and are under the jurisdiction of operating health authorities. Furthermore, these authorities follow a general policy of reciprocity in administering their several ordinances. These conditions support the adoption of milk marketing regulations that are applied equally within the defined area.

Marketing areas, as defined in Federal milk orders, are designed to cover as nearly as is practicable, areas in which milk is sold to consumers rather than the areas where the milk may be produced. The proposed order would regulate distributing plants that are in substantial sales competition with one another within the defined marketing area. The cities of Chattanooga, Cleveland, East Ridge and Athens, Tennessee, are the major cities involved.

As pointed out earlier in the discussion on interstate commerce, plants located in Chattanooga encounter substantial competition in the sale of Class I products in the Tennessee counties included in the marketing area and in at least two counties in Georgia.

A group of handlers (and later the producers' association) proposed a marketing area larger than that included herein. Their proposal to include Dade, Walker and Catoosa Counties in Georgia in the marketing area was, at first, abandoned on the grounds that Order No. 1198 (Western Milkshed), issued by the Georgia Milk Control Board and made effective May 1, 1955, established minimum prices to producers and obviated the need for further regulation. Later, these parties asked for inclusion of the three counties because of the possibility that the Georgia Milk Control Board order might be withdrawn, and, as a consequence, several handlers operating in the area would be unregulated. Beyond protection against such a contingency, there is no condition existing in those counties that demonstrates a need for correction by issuance of this order. Accordingly, they are not included in the marketing area proposed herein.

Bledsoe, Meigs, Sequatchie, Marion and Rhea Counties also were proposed for inclusion in the area by the same group of handlers (and later by the association). These counties represent relatively minor sales outlets to the nine handlers who distribute about ninety percent of the milk sold in the eleven county area and who would be regulated by this order. For example, these handlers sell no milk in Bledsoe County; dispose of less than one percent of their total sales in Meigs County, 1.7 percent in Sequatchie County, 2.2 percent in Rhea County, and 2.4 percent in Marion County. Furthermore, these five counties are largely rural and the need for regulating sales in them, in order to make effective the regulation in the urban areas, was not established by the record.

The marketing area, as defined above, comprises the markets and the population centers in which milk is marketed by handlers encountering substantial competition with one another. It also is largely coextensive with the area in which marketing conditions are chaotic and unsettled for producers. Accordingly, it appears that the marketing area defined herein includes the territory which will minimize the problems of competition with unregulated distributors and at the same time regulate enough sales area to restore and maintain orderly marketing conditions for producer milk.

Definitions of plants and milk to be subject to regulation. The distributing plants located within the Chattanooga, Tennessee, marketing area dispose of the major portion of their milk receipts as fluid milk products. These "fluid milk products" are required to be made from milk produced in compliance with Grade A inspection requirements of the duly constituted health authorities having jurisdiction in the area. The minimum class prices of the order should apply to such milk which is received from dairy farmers at plants primarily and normally engaged in supplying fluid milk products for sale on retail and wholesale routes in the marketing area. Such plants are defined as "pool plants" and such milk is defined as "producer milk".

These definitions are designed to identify the supplies of milk upon which the market regularly and normally depends. However, under terms of the order proposed herein milk may be disposed of for Class I purposes in the marketing area by and from plants not meeting such criteria. It is necessary, therefore, to establish definitive standards of performance which may be used in determining which plants and which milk do, in fact, constitute the regular and normal supply, and thereby becomes fully subject to regulation.

Such standards should be clearly set forth in the order and apply uniformly to all plants, wherever located. Any plant, regardless of location, may bring itself under regulation by performing in the manner required. Any plant may relieve itself of regulation by no longer operating in a way that brings it within the scope of the order. Under the circumstances, the decision as to whether a plant will be fully regulated, partially regulated or entirely unregulated is determined by the decision of the plant operator.

Any milk sold in the marketing area must, of course, conform to the sanitary requirements imposed by the local health authorities. However, handlers may meet these requirements without becoming regular and dependable sources of supply for the market (their milk may have been obtained as a supplemental supply during periods of emergency or their sales may be a small portion of a primary distribution in some other area with which local health authorities have reciprocal agreements). Clearly, it is not possible to identify regular and normal supplies solely on the basis of sanitation requirements.

Neither is the shipment of milk to a marketing area for Class I utilization a practical basis for identifying the milk which should be fully regulated under the order. There are situations in which plant operators may find it economical or desirable to make shipments of small quantities of milk into a marketing area, and with respect to which it is neither necessary nor desirable in terms of effective regulation to bring the operators of such plants under full regulation. For instance, a plant which is associated with another market may find it advantageous to ship milk to a plant regulated by the order in order to have such milk converted into manufactured dairy products. It is quite possible, however, through misunderstanding, or from errors of estimating the utilization of milk, for milk intended for utilization in Class II products to be assigned a Class I classification. If through such accident or misunderstanding a plant were placed completely under regulation, considerable hardship, unnecessary to effective regulation, might result.

Since neither health regulations nor the possibility that some milk from a plant may be used for Class I purposes in the marketing area provides an adequate measure of a plant's regular status in a market, the pool plant provisions must be based on regular performance. Such regular and substantial supplies are fully priced under the order and participate in the equalization pool.

As indicated elsewhere in this decision, market-wide pooling of producer returns is considered essential to the stable and orderly functioning of this market. Since a market-wide pool results in payment to all producers on an average utilization for the market, individual handlers are relieved of any responsibility for maintaining a high Class I utilization in order to support their pay rates to producers. Whatever utilization of milk a handler may have, his rate of pay to producers will be the same as that of all other handlers in the market because handlers whose proportion of utilization in Class I is greater than the market average, make payments into a producer-settlement fund, and those whose proportion of utilization in Class I is less than the average for the market receive payments out of the same fund. Thus, plants engaged primarily in the manufacture of milk into dairy products or in supplying other fluid markets have, under certain circumstances, an incentive to place their plants under regulation for the sole purpose of obtaining payments out of the producer-settlement fund. If a plant loses fluid sales in another area temporarily, it may seek to join a market pool in order to continue to pay farmers a blended price even though such milk is used in the lower-priced manufactured product uses. A manufacturing plant processing a specialty product for which a regular supply of Grade A milk is desired may seek to join a market pool in order to pay its producers the blended price for Grade A milk, although only a manufacturing value use for the milk is available. If such handlers are entirely free to decide when they will or will not share in the market pool, their decisions normally would be made to join the pool when they would draw payments from the equalization fund. Thus, it is possible that status with respect to the pool may become a determining factor in guiding a handler's operation. The Chattanooga market, however, would gain no advantage from the payment of equalization to such handlers. Such a distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately.

The scope of pooling or the rules for distributing the returns from Class I sales under the order, therefore, must be such that the differentials over manufacturing milk values paid by users of Class I milk will serve the purpose for which they are intended. The Class I milk price of the order is fixed at a level which exceeds the value of the milk for manufacturing uses. This premium, or differential, over the manufactured milk price is essential as an incentive to producers to supply milk of the quality and volume required by the market. Extra costs are involved in meeting the sanitary requirements relative to the maintenance of a dairy herd for the production of Grade A milk, in providing milk during the fall and winter months when feed and housing costs are high, in handling it through sanitary utensils and facilities, and in refrigerating and marketing it promptly.

The extra costs thus incurred by Grade A producers must be borne by that share of the milk which is marketed as Class I milk. Reserve or "surplus" milk, although an essential part of a fluid milk business, cannot be expected to return producers more than a manufactured milk value. The only outlet for reserve milk not needed for fluid use is in the form of manufactured products. Such products must be marketed in competition with similar products which can be and are made throughout the country from ungraded milk.

Since the production of high quality milk involves extra expenses, it is important that the amount produced be no more than the minimum necessary to provide the market with an adequate and dependable supply. To encourage unneeded production of such milk would represent an economic waste, since the expenditures involved in producing Grade A milk that is not an essential part of the market supply results in no extra value to consumers. Clearly then, one of the primary problems in setting up a market-wide pool is to establish standards which will provide for the sharing of Class I sales (Class I differentials) among the producers who are an essential and regular part of the milk supply for the marketing area.

Performance standards, therefore, should be such that any plant which has as its major function the supplying of milk to the market would pool its sales and share in the market-wide equalization. On the other hand, performance standards must be flexible enough to allow a plant primarily associated with the market to maintain its status under the changing conditions which occur from year to year, and yet not permit the distribution of equalization payments to plants not part of the essential supply. The performance standards herein provided are such that these objectives should be accomplished.

Because of the difference in marketing practices and in the demand for milk among distributing plants and supply plants, two sets of performance standards are provided. A "distributing plant" under the order would be defined (in § 1000.7 (a)) as a plant in which Grade A milk is received or processed and from which Class I milk (as hereinafter defined) is disposed of during the month on a route(s) (including routes operated by vendors) or from a plant or plant store to retail or wholesale outlets (except pool plants) located in the marketing area. A "supply plant" would be defined (in § 1000.7 (b)) to mean a plant from which fluid milk products acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant qualifying as a pool plant.

In order to qualify as a pool plant, a distributing plant should be required to distribute at least 20 percent of its Class I milk during the month as Class I milk in the marketing area. A distributing plant having more than 80 percent of its fluid milk products business outside the marketing area should not be considered as essentially associated with the local fluid market, since only a minor share of its business is in the marketing area. In such a case, full regulation would not be necessary to accomplish the purposes of the order. It might even place such a plant at a competitive disadvantage in supplying the unregulated, but primary, market. As pointed out earlier, such a minimum standard also is necessary to avoid the possibility that a plant otherwise not associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of minor sales in the marketing area.

Combined with the requirement that sales equal to 20 percent of a handler's Class I business be made in the marketing area there is established a requirement that at least 50 percent of the handler's receipts in each month be disposed of in Class I uses. This requirement with respect to total Class I use will exempt from full regulation those plants generally recognized as manufacturing milk plants. In conjunction therewith, provisions for pricing the milk actually disposed of in fluid items in the area should be established to assure that the market is not disrupted by sales of such handlers.

Supply plants which are not primarily associated with the market, and which furnish only incidental shipments of milk to the market or regular shipments of limited quantities during only the shortest production period, need not be fully regulated. Such plants supply the market for a short duration only and may be located at widely scattered points. Such plants should be able to supply milk to the market during such periods of need without becoming fully subject to the order unless they become closely and primarily associated with the Chattanooga marketing area by continuing to supply a substantial part of their producer receipts to the regulated market. Such supply plants are a normal part of milk procurement facilities in many markets; standards recommended herein will provide the framework for their appropriate regulation.

It is recognized, however, that the demand for milk from supply plants may vary seasonally and will be greatest during the season of low production. For sustained periods during the months of flush production supplies of milk received at plants located in or near the marketing area may be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the country for manufacture, and use local supplies for Class I use. The performance standards should not force milk to be transported to distributing plants in the summertime where it must be manufactured in order to maintain the eligibility of supply plants to pool.

To avoid this, provision should be made whereby a supply plant may maintain pool plant status throughout the year if it supplies a substantial portion of its producer milk to distributing plants during the months when milk production tends to be lowest. On the other hand, withdrawal from the market of the milk received at a particular supply plant during the months of March through July would not be likely to seriously threaten the marketing area with an insufficient supply. It seems justified, therefore, to permit the voluntary withdrawal from the pool during that period of any supply plant which so requests in writing prior to the first day of a month for such withdrawal. Any distributing plant or supply plant which does not meet the standards for a pool plant should be required to file reports and submit to audits by the market administrator to verify the status of such plant.

These objectives can best be accomplished by defining as a "pool plant" any supply plant that ships to fully regulated distributing plants during the month at least 50 percent of its receipts of producer milk. If a supply plant meets these standards each of the months of August through February, such plant should be designated as a "pool plant" until the end of the following July (unless the plant requests withdrawal of such status). Receipts from plants not qualified under these supply plant standards should be considered as other source milk.

Some milk distributed in the marketing area is from plants which are fully subject to the classification, pricing and pooling provisions of other Federal milk marketing orders. To attempt to extend this order to cover such plants which dispose of a major portion of their receipts in another area would result in unnecessary duplicate regulation. Accordingly, the order proposed herein provides that a distributing plant which would otherwise be subject to the classification and pricing provisions of another order, and which disposes of a greater volume of Class I milk in the other area than in the Chattanooga area, shall be regulated by the other order.

Because the Class I prices in Chattanooga and adjacent markets under Federal regulation will be closely aligned there is little chance that handlers in any one of the markets can achieve a lasting competitive advantage over handlers regulated by any of the other Federal orders. Handlers operating plants regulated by other Federal milk orders could not sell surplus milk in the Chattanooga market for Class I use without accounting for it at the Class I price (because all orders require handlers to pay for producer milk on a classified-use basis). No compensatory payments are required, therefore, on milk, classified and priced as Class I under any other Federal order. However, such plants should be required to report their receipts and utilization to the market administrator as required so their exact status under the order can be determined.

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The order should provide that a compensatory payment be made into the producer-settlement fund of the marketwide pool on milk not priced as producer milk under the order which is (1) allocated to Class I milk in a pool plant or (2) distributed on a route(s) within the marketing area by a nonpool plant. It is necessary to require payments on such milk in order to maintain reasonable uniformity of cost of milk and equity among handlers, and to preserve the integrity of the classified price plan for milk in the market-wide pool. Accordingly, there is included in § 1000.70 of the order a provision for including in the value of milk computed for each pool plant a payment (computed at the rates set forth in § 1000.54) on "other source milk" received by it and subtracted from Class I milk pursuant to § 1000.45 (a) (2) and (b) and in § 1000.62, a provision for payment by each nonpool plant at the same rates for butterfat and skim milk disposed of in the form of fluid milk products on a route(s) in the marketing area.

As pointed out previously, the classified price plan and the minimum prices for each such class set forth herein will be fully effective only on producer milk and on plants subject to full regulation under the order. However, milk may be disposed of for Class I utilization by and from plants not subject to full regulation of the order. Such unregulated plants may sell milk in bulk form to pool plants that do, in turn, use it in supplying their Class I outlets, or they may sell Class I milk directly on routes as defined herein. There are no provisions in the order that prohibit any plant from selling milk directly or indirectly in the marketing area. The problem created by sales from unregulated plants similar to those just described is that such plants are not required by terms of any order to pay producers the minimum class prices based on the utilization made (and verified by audit) of the milk. For the reasons set forth in the findings and conclusions relative to what plants and what milk constitutes the regular and essential part of the area's milk supply, some means must be found to offset, or neutralize, the cost advantage an unregulated plant will have in disposing of unpriced milk in the regulated Class I market in competition with plants subject to full regulation under the order.

The role of the compulsory classification system and minimum prices for such classes as set forth in a Federal milk order is to insure that the price competition from reserve and excess milk will not break the market price for Class I milk, thereby destroying the premium prices necessary to encourage Grade A production. The end result of that would be to destroy producers' incentive to supply the milk needed by consumers. Because the classified pricing program of the order is applicable only to fully regulated plants, it is necessary to provide continued stability of the market by neutralizing any advantages unregulated plants may attain with respect to sales in the regulated market. Such plants have a real financial incentive to find means to sell excess milk at prices somewhat less than current Class I levels so long as the price is higher than its value when used in manufactured dairy products. If unregulated plant operators were allowed to dispose of surplus milk for Class I purposes in the regulated marketing area without some compensating or neutralizing provision of the order, it is clear that the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress, as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning minimum prices to the producers for the regulated marketing area, would be defeated. Moreover, inefficiencies in the marketing of milk would be encouraged for the regulated market would obtain its Class I milk not from the regular and normal supply for the market but from other sources of supply generated solely as a result of the price advantage created for unregulated milk by the regulation itself.

The compensatory payments applicable to other source milk disposed of in the marketing area from distributing plants which are nonpool plants should be the same as those applicable to other source milk distributed from pool plants. It would not be possible to stabilize the market under the classified pricing program in this market if nonpool plants were allowed to distribute unpriced milk in the marketing area without compensatory payments. Handlers distributing such unpriced milk in the marketing area have the same opportunity to buy milk at the opportunity cost level as do the operators of pool plants who purchase other source milk. In addition, however, the operator of a nonpool plant in all probability has surplus milk in his own plant which he would want to dispose of on any basis which would yield a higher return than the surplus value. It would be particularly easy to dispose of such milk for Class I use in the marketing area by bidding for large contracts such as hospitals, defense establishments or large institutions. With surplus outlets as the alternative, and no compensatory payments to make, the nonpool handlers would have considerable incentive or margin to underbid the seller of priced milk for such sales. A nonpool plant might also use such price advantage in selling his surplus milk to Class I outlets for the purpose of establishing a regular trade on retail or wholesale routes to homes and stores in the marketing area. The nonpool plant might sell up to 25 percent of its Class I milk into the marketing area as Class I without becoming subject to regulation. To allow a nonpool plant to use its surplus milk in this manner for establishing a regular trade in the marketing area without compensatory payments would give him a marked competitive advantage over regulated handlers selling priced milk. Such conditions could readily lead to disorderly marketing conditions. Providing for some method for compensating for, or neutralizing the effect of, the advantage created for unregulated milk, therefore, is an essential and necessary provision of this order. The payments required by this order on such milk will not bring the operating plant under full regulation yet it will remove any advantage to the unregulated plant.

This rate of compensatory payment is based on the value of unpriced milk under the conditions existing in the area—the difference between the opportunity cost of unregulated milk (its value at the lowest use) and the price under the order for milk going into comparable uses. Such a rate of payment based on the most economical cost of other source milk available to handlers will remove, as far as is administratively possible, any clear advantage one handler may obtain relative to his competitors by obtaining unregulated milk and substituting it for producer milk in Class I.

By the very nature of fluid milk operations, as explained earlier, handlers have milk that is produced for, but is not utilized as Class I milk. In and around the Chattanooga market this surplus milk must be used by being processed into manufactured dairy products. Therefore, the opportunity cost of surplus milk is its alternative value for manufacturing purposes. It is reasonable to conclude that milk could be obtained at prices reflecting its value as surplus milk in these markets during such times as any considerable volume of Grade A milk must be disposed of as surplus by unregulated plants in that general area. Handlers fully regulated under the order seeking to purchase unregulated milk will naturally resort to the lowest cost source from which suitable milk is available. In fixing the rate of compensation payment, it is necessary, therefore, to determine what the lowest cost source may be and to base the payment on the difference between the cost of such milk and the cost of milk priced under the order for similar use. At other times, the opportunity cost of the cheapest other source milk in the general region of the Chattanooga market will be reflected by the prevailing blend prices paid farmers. During such months unregulated handlers will be forced by competition to pay farmers approximately average blend prices.

It is concluded, therefore, that during the months of March through July (when surplus milk may be available in substantial volume to the Chattanooga market from nonpool sources), the compensatory payment on other source milk or milk utilized in Class I should be based on the difference between the minimum price of producer milk used for surplus and the applicable Class I price under the Chattanooga order. The Class II price established by the order is a fair and economic measure of the value of milk in surplus uses in the Chattanooga area.

For the months of August through February, when milk supplies tend to be shorter, it is concluded that (1) other source milk is not likely to be available to handlers at surplus prices and (2) during these months the compensatory payment should be based on the difference between the Class I and the blend prices under the order. Generally speaking, during these months the relationship between the supply of milk in the Chattanooga milkshed area and the demand for such milk will tend to fluctuate considerably from year to year according to production conditions. Those fluctuations will generally tend to be similar in Chattanooga, Knoxville, and surrounding milksheds. Thus, the rate of compensatory payment based on the difference between Class I and blend prices will adjust itself automatically in these months according to the changes in demand for and price of outside supplies. If supplies of producer milk are relatively plentiful, unpriced milk can be expected to be cheaper, and therefore, the rate of compensatory payment should be somewhat higher. On the other hand, as milk supplies in the area tend to be short, it is to be expected that the cost of unregulated milk will increase. Under these circumstances, the rate of compensatory payment will be correspondingly less.

By choosing a rate of compensatory payment which reflects the cost of the cheapest other source milk which may be expected to be available to regulated handlers, any advantage to one handler relative to others, in obtaining such cheap milk and substituting it for producer milk in Class I, is removed insofar as administratively possible and no handler is given the clear opportunity to gain an unfair advantage which otherwise would exist. Although the unfair advantage of obtaining other source milk is removed by the particular rate of payment herein provided, nevertheless, if other source milk is to be purchased, the incentive for purchasing the cheapest of such milk remains, because the lower the price which a handler pays for other source milk, the lower will be his total cost of purchasing such milk.

All funds collected from compensatory payments should be added to the producer-settlement fund. The handler regulated by the order should be obligated to make the compensatory payment to the producer-settlement fund. There will be no difference in actual price paid for milk whether the payment is made by the regulated handler or by the operator of the unregulated plant from which the other source milk was obtained. Because the regulated handler makes the actual distribution of the milk in the marketing area, and because he reports its utilization to the market administrator, he is, from the administrative viewpoint, the logical one to make the payment.

For the reasons set forth later in this decision, Class I milk under the order is priced at the point where the milk is received from producers, hence the compensatory payments on other source milk should be computed at the same stage of the marketing process to be directly comparable. No allowances are made in the order for the costs and profits of handlers in moving producer milk through subsequent stages of marketing; neither should they be made for other source milk.

A "handler" should be defined as any person in his capacity as the operator of one or more pool plants. Such handler is the person to whom the provisions of the order are applicable. The handler receives the milk and thus must be held responsible for reporting the receipt and utilization of it. If the milk is priced, he is responsible for paying producers the specified minimum prices. The definition of a handler should include a cooperative association with respect to milk of producers diverted for the account of such association in accordance with § 1000.6. If a handler also operates an unregulated plant(s) in a separate building, this definition is not intended to include such person in his capacity as an operator of such plant(s). This definition should include the operators of distributing plants and supply plants which do not qualify as pool plants and producer-handlers in order that they may be required to report to the market administrator whenever necessary to determine their status. In the case of distributing plants which are nonpool plants by virtue of insufficient sales in the marketing area, such reports are necessary to determine the amount payable by the operator of such plant on the unpriced milk distributed in the marketing area.

"Producer" should be defined as any person other than a producer-handler who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority and the milk is received at a pool plant. Provision should be made so the milk of producers regularly received at a pool plant may be diverted for the account of a handler to a nonpool plant any day during the months of March through July and on not more than 10 days during any other months. This will allow milk regularly associated with the market to be diverted to manufacturers during periods of flush production and over weekends and holidays when supply-demand relationships require some reserve milk to be manufactured in plants not regulated by an order. Producers whose milk is so diverted will continue to receive the uniform price under the order and their milk will be available for fluid use when needed. Diverted milk shall be deemed to have been received at the plant from which it was diverted.

"Producer milk" should include all skim milk and butterfat contained in milk produced by producers and received at pool plants directly from producers or diverted by a handler from such plant.

"Producer-handler" should be defined as a person who produces Grade A milk under the supervision of any duly constituted health authority, and who operates a distributing plant in which he handles only milk of his own production and milk from pool plants which was priced at such plant, and all or part of which milk is distributed on a route(s) within the marketing area as Class I milk. A producer-handler should be subject to the order only to the extent that he must submit reports to the market administrator, as required, and maintain and make available to the market administrator, accounts, records and facilities so that the market administrator may verify that such person is a producer-handler. It would be meaningless to require under the order that a producer-handler pay any particular price for milk produced on his own farm.

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

"Other source milk" should be defined as all skim milk and butterfat utilized by the handler in his operations except fluid milk products received from pool plants, inventory and current receipts of producer milk. This includes any nonfluid milk products from any source, including those produced at the handler's plant during the same or an earlier month, which are reprocessed or converted to other products during the month in the plant. Thus, other source milk would represent butterfat and skim milk from sources not subject to the Class A pricing provisions of the attached order. If such other source milk is disposed of in a fluid milk product, partial pricing and regulation is provided under compensatory payments. Defining other source milk in this manner will insure uniformity of treatment among all handlers under the allocation and pricing provisions of the order.

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

A classified-use plan of this type will insure that minimum prices for milk may be made equal among handlers according to use, that a price may be fixed for the milk disposed of as Class I at a level that will bring forth an adequate supply of pure and wholesome milk, and that a necessary reserve of quality milk may be maintained at all times (and used at prices in line with its value when processed into manufactured dairy products) without disrupting marketing and pricing conditions within and outside the established marketing area.

The products which should be included in Class I milk are those generally required by health authorities in the marketing area to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products somewhat above the ungraded or manufacturing milk price. This higher price should be at such a level that it will yield a blend price to producers that will encourage production of enough quality milk to meet market needs for these fluid milk products.

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

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

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

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of milk products, received and disposed of by a handler, can be determined through certain recognized testing procedures. Some of these products, such as ice cream and condensed products, present a more difficult problem of accounting in that some of the water contained in the milk has been removed. It is necessary, in the case of such products, to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator in the case of products produced by a handler, or by means of standard conversion factors of skim milk and butterfat used to produce such products in the case of products purchased by a handler. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible for establishing the classification of, and making payment to producers for, such milk. Fixing responsibility in this manner is a practice which is followed consistently in Federally regulated markets and it is necessary herein to administer effectively the provisions of the order. The operator of the plant at which milk is first received from producers is the person with whom contractual relations have been made by producers or their representatives. Except for the limited quantities of shrinkage which may be classified in Class II under the certain conditions set forth elsewhere in this decision, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened); nonfat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk. Skim milk and butterfat disposed of to commercial food product manufacturing plants, other than dairy plants, which do not dispose of fluid milk products for fluid consumption, should be Class II milk. The health ordinances applicable in the marketing area do not require that these products be made from locally approved milk.

Cream placed in storage and frozen should be classified as Class II milk. Such cream is intended primarily for use in ice cream and ice cream and ice milk mixes. Skim milk disposed of and used as animal feed also should be classified as Class II. Also, any skim milk which may need to be dumped should be in Class II. Because dumping can be verified only by witnessing the action, the handler is required to give advance notice to the market administrator so he may have the dumping witnessed. Any frozen cream or other Class II products which are used later in a pool plant would be considered as other source milk at the time of such use and assigned to the lowest price utilization in the plant.

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

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Inventory is intended to include stocks on hand of bulk milk, skim milk, and cream and bottled milk and other fluid milk products designated as Class I milk. Manufactured products (Class II) on hand are not included in the inventory account because the milk used to produce such products will already have been accounted for as Class II milk. As previously indicated, handlers will need to keep stock records of such products but they will not be included in inventory for the purpose of accounting for current receipts.

It is concluded that inventory should be accounted for as Class II milk. If fluid milk products in inventory are accounted for as Class II milk at the end of the month, it will be necessary to provide a method to deal with the producer milk inventory which is used in the current month for Class I purposes but which the handler accounted for to producers as Class II milk at the end of the previous month. In a plant which engages primarily in a fluid milk business, it is quite possible that a decrease in inventory in any given month may exceed its total utilization of milk in Class II. Handlers, at times, also use other source milk in their operations. Producer milk from inventory should have prior claim on Class I sales over current receipts of other source milk. This can be accomplished by considering the ending inventory in one month as a receipt in the following month and subtracting such receipt (under the allocation procedure) in series starting with Class II milk following the subtraction of other source milk. To the extent that opening inventory is allocated to Class I milk and there was an equivalent amount of producer milk classified in Class II milk in the previous month (after the allocation of other source milk) a reclassification charge should be made at the difference between the Class I price in the current month and the Class II price in the preceding month. This will promote equality in the cost of milk among handlers and returns to producers, irrespective of whether or not such producer milk is from the previous month's ending inventory or is a current receipt.

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

Transfers. Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, since some Class I items may be disposed of to other plants for processing, separate classification procedures should be prescribed for transfers to other plants.

Milk, skim milk, cream or other products designated as Class I milk transferred by a handler to the plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, if Class II is claimed, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk. Furthermore, the assigning to classes must be such as will result in the maximum amount of producer milk of both handlers being assigned to Class I milk. These actions will carry out the recognized principle that the highest-valued uses should be assigned first to the milk of regular producers.

In order to reduce the administrative expense of verifying the use of milk or skim milk transferred great distances, transfers of milk or skim milk to plants 250 miles or more from the City Hall of Chattanooga, Tennessee (by the shortest hard-surfaced highway distance) should be Class I in all cases. The costs involved in transporting milk or skim milk in fluid form such a distance are such that it would not be economically feasible to move the milk farther for Class II disposition.

Cream presents a somewhat different problem because its value is so much greater in relation to its bulk that it may be transported long distances for manufacture. In order to provide for such transfer and at the same time provide reasonable assurance that the butterfat is being classified according to use, it should be provided that cream may be Class II if the following conditions are met: (1) The transferring handler requests such a classification, (2) it is clearly labeled as manufacturing grade cream and the shipment is so invoiced, (3) if the operator of the nonpool plant maintains books and records of utilization at the plant which are made available on request of the market administrator for verification of usage, (4) if prior notice of the intended shipment is furnished to the market administrator, and (5) the nonpool plant used an equivalent amount of skim milk and butterfat in the use indicated.

The more common form of transfer to a nonpool plant is the movement of excess milk to nearby manufacturing plants. It is provided that transfers of milk, skim milk, or cream from a pool plant to a nonpool plant located within a radius of 250 miles of the City Hall in Chattanooga, Tennessee, be Class I unless Class II use is affirmatively established. Evidence of Class II use consists of a certification by the pool plant operator that the transfer was intended for Class II use, and verification by the market administrator of the records made available by the nonpool plant operator to establish that the milk was utilized for manufacturing purposes.

Allocation. Because the order class prices apply only to producer milk, it is necessary, if a pool plant has butterfat or skim milk other than that received in producer milk, to determine the quantities of milk in each class to be assigned to current receipts from producers. The milk of producers should be assigned the Class I utilization first. This is necessary to insure the effectiveness of the classified pricing program of the order. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in detail in the order.

In general this procedure requires that skim milk and butterfat, respectively, remaining in each class be assigned to producer milk by making the following deductions from the gross utilization of each handler starting with Class II milk, except as otherwise noted:

(1) Class II shrinkage of producer milk;

(2) Other source milk;

(3) Beginning inventory;

(4) Receipts from other handlers (according to classification); and

(5) Overage.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month. To apply a shorter accounting period would place an accounting and reporting burden upon handlers and increase the cost of administering the order.

(c) *Class prices.* In order to restore and maintain orderly marketing conditions in the Chattanooga, Tennessee, area, minimum Class I and Class II prices for producer milk must be established at levels that will reflect economic conditions affecting the market supply and demand for milk or its products and assure the maintenance of a supply of quality milk adequate for the needs of the market. The enabling act requires that minimum prices established by Federal milk orders meet this standard. An important point in this requirement is that the prices shall be at level that over a reasonable period of time, due consideration being given the need for a reserve of milk and the seasonal variation in production, the supply of milk meeting the quality standards of a market will be about equal to the needs of the market for milk of that quality. This means, in turn, that the minimum prices provided for in the order can be related to general economic conditions, but cannot be maintained out of line with such conditions. If producer prices are too low, not enough milk of acceptable quality will be produced to supply fully the Class I needs of the market. If such prices are too high, on the other hand, milk production will be over stimulated and fluid consumption will tend to be curtailed. These actions would cause more milk to be produced than is needed to supply the demand for Class I milk, including the necessary reserves, and would eventually result in the shifting of agricultural resources toward the production of unnecessary and uneconomic surpluses and this would depress the blend price to producers.

The concept of adjusting minimum class prices in response to changes in supply and demand conditions, and thereby influencing production of milk through consequent changes in producers' blend prices, has wider geographical implications today than in the past. In earlier days producers were limited to supplying milk to local markets because of inadequate transportation facilities and the local nature of health regulations and milk distribution systems. Today the technological advances in milk production, including the widespread use of milk cooling equipment on farms; the rapid motor transportation from farms to a number of cities instead of one or two, especially through the advent of bulk farm tank milk pickup; the increased efficiency of milk processing equipment and plants; the increasing importance of paper containers for packaging milk; the use of refrigerated delivery trucks; the sale of milk through vendors and stores in distant cities; and the corollary trend among health authorities approving sources of milk derived from a wider supply area under agreements for reciprocal inspection—all these factors enable milk to be transported and sold long distances from the point of production and processing. Record testimony shows that these economic developments and trends have and are influencing the marketing organization and price structure for producer milk and for fluid milk products in the Chattanooga, Tennessee area. Producers and handlers alike recognized the influence of these trends and developments in many ways, most significant of which was the continued reference to the need for aligning any prices to be included in the order with prices currently being paid in such markets as Knoxville and Nashville, Tennessee, both of which presently are regulated by Federal milk orders, and such non-Federally regulated areas as Atlanta, Georgia, and Birmingham, Alabama.

Representatives of the producers' association visualized the Class I pricing problem as one of alignment between two Federally-regulated markets to the North (Knoxville and Nashville) and two markets to the South regulated by State milk control programs (Atlanta, Georgia, and Birmingham, Alabama). These four markets are located within a radius of 113 to 138 miles of Chattanooga. They contended that appropriate alignment of Chattanooga prices with the Georgia and Alabama State milk control price structure is necessary to forestall loss of the available supplies of producer milk to those markets; appropriate alignment with Knoxville and Nashville is necessary to forestall loss of Class I sales of the Chattanooga market to lower-priced milk from those areas. On the basis of these criteria, producers requested a Class I differential of $2.00 per hundredweight over the basic formula price for all months of the year. In support of this level, producers cited the facts that: (1) The Class I differential in the Knoxville order is $1.50 over a basic formula price all months of the year, (2) the cost of transporting milk from Knoxville to Chattanooga is about 25 cents per hundredweight, and (3) the supply-demand adjustment in the Knoxville order has increased the Class I price in that market by an average of 25 cents per hundredweight each month since the provision has been in effect.

Handlers' testimony was that the basic formula price, the Class I differential and the Class I butterfat differential should be identical with those contained in the Knoxville order, at least until such time as adequate market-wide data are available for the Chattanooga market to develop an independent basis for pricing Class I milk. The primary basis for this pricing plan is the fact that a major handler in the Chattanooga area purchases his entire supply of producer milk under the pricing provisions of the Knoxville order. Furthermore, they felt such a price level is in reasonable alignment with the Class I price level in the Nashville, Tennessee, order plus the cost of transporting bulk milk from Nashville to Chattanooga.

The record supports the necessity for a proper alignment of both class prices and the producer blend price with those prevailing in surrounding markets. The problem then reduces itself to this: With what markets should the Chattanooga area be aligned to insure a proper level and relationship of prices, and how can that alignment be achieved?

With respect to the need for aligning Class I prices in Chattanooga with those prevailing in the four surrounding markets mentioned above, record evidence indicates that prices paid under the State milk control plans of Georgia and of Alabama have a far less significant effect in inducing or prompting shifts of producers between such markets and Chattanooga than is the case between the Chattanooga market and the Federally-regulated markets of Knoxville and Nashville. During the last few years, for example, only a few milk producers located in Tennessee have been able to shift their sales to distributors located in Georgia, even though the Class I price levels in the Western Milkshed of Georgia have been higher than Chattanooga area prices.

As a practical matter, then, in seeking a base for price alignment, it is necessary to turn to the Nashville, and more especially, the Knoxville markets. The Class I prices in these markets are established at a specified level over a basic manufacturing milk value. These levels are adjusted by a measure of local supply of milk relative to Class I sales in the Knoxville area at present and will be so adjusted soon in the Nashville area.

As between the two areas, the Chattanooga market is much more closely related to Knoxville than the Nashville area, both in sales of fluid milk and in procurement of milk from producers. The milk supply areas of Chattanooga and Knoxville are intermingled—both markets drawing producers from Loudon, Monroe, Meigs and McMinn Counties, Tennessee. Furthermore, many producers of ungraded milk are located in the over-lapping production area between the Knoxville and Chattanooga markets. Also, there is direct competition between Chattanooga and Knoxville handlers in the sale of fluid milk products as milk moves south from Knoxville (in and through Chattanooga and into Georgia) and north from Chattanooga to Knoxville. The relationship with the Nashville area is not so direct and intermingled as that with Knoxville.

The Class I price in the Knoxville market is calculated by adding a Class I differential of $1.50 to a "basic formula price" for the preceding month. This price is subject to increase or decrease within specific limits, in the event local supply and demand relationships vary beyond a normal range. The Class I pricing formula for the Chattanooga marketing area should reflect the additional cost of transportation from the Knoxville marketing area to Chattanooga. This will be in conformance with the longtime relationship between prices in Knoxville and Chattanooga, and will reflect the higher location value of Class I milk which tends to rise from the major production areas in the Central United States to the South and East. Based on these normal considerations, it is concluded that, for an introductory period of 18 months, the Class I price in Chattanooga should be about 25 cents a hundredweight higher than the Class I price in Knoxville on an annual basis under normal supply-demand relationships in each market. This level of price would be arrived at by adding a differential of $1.75 to the basic formula price.

The record indicates that a level of prices somewhat higher than those prevailing in markets to the north and west is needed to attract sufficient milk from local sources to meet the requirements of the market. On the other hand, the effective price of Class I milk in the Chattanooga area should not, over any extended period of time, exceed the cost of regular dependable supplies of Grade A milk from alternative sources.

In this connection, the relationship to the Nashville market is particularly important, since supplies in that area tend to be more ample than in the Chattanooga area. The Class I price differential of $1.75 for the Chattanooga market would be 50 cents higher than the average of differentials under the Nashville order.

Furthermore, in view of the direct relation of this market to Knoxville, the Knoxville-Nashville price relationship is significant. The Class I price level in the Nashville market is lower than that existing in Knoxville. During 1953 and 1954, for example, the Class I price (including premiums) in Knoxville averaged about 34 cents a hundredweight higher than the corresponding price in Nashville. Official notice is taken of the Class I prices regularly announced by the market administrator for the Knoxville and Nashville marketing areas. During the period January–November 1955, the average Class I price for Knoxville exceeded the average Class I price for Nashville by 45 cents per hundredweight. It is apparent from these data that if the Chattanooga price was maintained at a fixed differential of 25 cents over Knoxville in every month, the difference between Chattanooga and Nashville prices could often be considerably more than 50 cents per hundredweight. Such a fixed relationship to the Knoxville market does not appear to be necessary, and could lead to a level of prices too high in relation to the Nashville market.

Under the provisions of the order proposed herein, milk fully priced under any Federal milk order will be enabled to move into the Chattanooga area without being subject to any compensatory payments. Under the circumstances, it is necessary to keep the Chattanooga Class I price in appropriate alignment with that prevailing in Nashville in order not to create an incentive for handlers to cut off local producers who would receive the Chattanooga Class I price and procure milk on a regular basis from plants regulated by the Nashville order.

Because of the lack of comprehensive and accurate market information, it is extremely difficult to determine from this record the exact relationship between producer receipts and Class I sales of regulated handlers during any periods. It is clear that more information is needed before an automatic supply-demand adjustment could be developed from local information. It is recognized, however, that the Class I price in both the Knoxville and Nashville areas is subject to adjustment by a supply-demand formula. Under the circumstances, it is quite possible that changes in the Class I price level in these markets, brought on by a supply-demand adjustment, may cause some variations in price relationships between Chattanooga and Knoxville and Nashville. However, it is concluded that, among all alternatives, the best choice is to permit the specified Chattanooga area Class I price level to remain effective as set forth above until such time as information gathered under terms of the order proposed herein can provide a basis for a local supply-demand adjustment. Such a Class I price level in Chattanooga also will be as properly aligned with current Class I prices in Knoxville and Nashville, plus transportation and hauling to Chattanooga, as is possible to establish at this time.

If experience indicates that the proposed level, or the basis or method of pricing, fails to bring forth a satisfactory level of producer milk receipts in the marketing area, it will be appropriate to re-examine these provisions in conjunction with the complete marketing information that will become available after the order has been in effect. In any event, after the accumulation of at least one-year's data, the basis or method of pricing should be re-examined at a public hearing called for that purpose. For this reason the Class I price structure adopted herein will be effective for a period of only eighteen months. A period of eighteen months after the effective date of this order should be sufficient time to develop the needed data relating to the Chattanooga market and to re-examine the pricing mechanism and price level for Chattanooga in light of the economic evidence accumulated under the Chattanooga order.

Class II prices. Every fluid milk market needs a "reserve" supply of Grade A milk to meet day to day fluctuations in receipts from producers and in Class I sales. In the Chattanooga area, as in other fluid milk markets, consumers desire adequate and dependable supplies of Class I products in quantities which, while they vary considerably on a daily basis, do not change greatly from season to season. Milk producers on the other hand, because of the seasonal variations in milk production, generally deliver more milk during the spring and summer months than during the fall and winter months. The result is that handlers must process on a year-round basis the reserve milk, and during the months of flush production quantities of seasonal excess into various manufactured products. Since milk going into these products must be paid for at the Class II price, this price should be fixed at a level which will induce handlers to accept and market whatever quantities of such milk may be offered from month to month by the producers who provide the market's regular fluid supply. It is of equal importance to establish a price that will return producers full value for their milk. The Class II prices recommended herein will permit the economical conversion of reserve milk into manufactured products.

All products included in Class II may be made from unapproved milk. Approved milk which may be used in such products by regulated handlers in the Chattanooga area should be priced in line with the cost of alternative supplies of milk or milk products used by dairy products manufacturers in this general area.

Many handlers in the proposed area have limited facilities for handling any milk above that needed for their fluid operations. A few handlers manufacture such by-products as cottage cheese and ice cream mix, principally for the needs of their own trade. The remaining milk not needed for fluid distribution must be transferred or diverted from the plant at which it is usually received to a plant having adequate facilities.

The producers' cooperative association recently constructed a large milk plant for the processing of any milk, surplus to the needs of handlers or the market. Butter and powder are the primary products of this plant. The variety of products into which surplus milk is manufactured contributes to the value of such milk insofar as each product offers an alternative outlet.

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

During the months of flush production, milk should be priced at the rate at which seasonal reserves will not disrupt the orderly marketing of all milk. The level of such pricing, however, should not be below that paid for ungraded milk, since such prices represent the lowest value in the milkshed for milk used for manufacturing purposes. Handlers who need and desire the entire output of producers during periods of short supply should assume the responsibility of paying producers at least the competitive manufacturing prices for Class II milk during the months of flush production. Accordingly, the Class II price for the months of February through August should be the average of the prices paid for milk received from dairy farmers by selected manufacturing plants in the area. The four plants whose pay prices should be so used are: Kraft Foods Company, Fayetteville, Tennessee; Pet Milk Company, Greeneville, Tennessee; Carnation Company, Murfreesboro, Tennessee; and Borden Company, Lewisburg, Tennessee. These plants are the principal buyers of ungraded milk in the production area of the proposed marketing area.

During the months of short production (September through January), a higher level of prices for Class II milk should be provided in order to encourage the transfer or allocation of available supplies of milk from manufacturing uses to fluid uses. During the months of September through January, therefore, the Class II price should be the higher of either (1) the price computed pursuant to a butter-nonfat dry milk solids formula which will reflect changes in the value of manufactured products in the general area and on the national market or (2) the average of the prices paid by the four local manufacturing plants mentioned above. The butter-powder formula is identical with that used for the same purpose in the Knoxville, Tennessee, marketing area. The calculations, with respect to butter, give appropriate allowances for the costs of manufacturing butter, for the overrun involved, and for the pounds of butterfat contained in the milk. The calculations, with respect to spray and roller nonfat dry milk, give appropriate allowances for the costs of manufacturing, for the pounds of solids obtained from a hundredweight of skim milk, and for the pounds of skim milk in a hundredweight of milk containing 4.0 percent butterfat.

In order that the Class II price may be kept in line with current changes in manufacturing values, the prices paid for manufacturing milk and the central market prices for butter and nonfat milk solids during the current month should be used for determining the Class II price under the order.

Location differentials. Class I milk products, because of their bulky, perishable nature, incur a relatively high transportation cost if such products or the milk used to produce them is moved a considerable distance. Milk delivered directly by farmers to plants in or near the urban centers in the defined marketing area is therefore worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because in the latter instance the handler must incur the additional costs of moving that milk into the central market. The producer, in turn, receives less for milk delivered to points distant from the central market in lieu of incurring the additional costs of hauling his milk into the central market. Under these conditions the value of producer milk delivered to plants located some distance from the central market is reduced in proportion to the distance (and cost of transporting such milk) from the point of receipt to the central market.

In order to allow for the cost of moving Class I milk from distant plants that are, or might become, regular sources of supply for Chattanooga, it is necessary to establish the Class I price for milk delivered to plants at a point in the marketing area and then provide a schedule of deductions from the Class I milk price as location differentials or adjustments. The city of Chattanooga is the principal consuming area and, at the same time, represents a central point at which producer prices should be the highest. Accordingly, the distances used in determining the location differentials should be measured from the City Hall of Chattanooga, Tennessee, and should apply at plants located 65 miles or more away by the shortest hard-surfaced highway distance as determined by the market administrator.

The rates should begin with 15 cents at plants located in the 65–75 mile zone and be 1.5 cents more for each additional 10 miles or fraction thereof as measured from the City Hall in Chattanooga. Handlers can be expected to move milk into the market in the most efficient and feasible manner. In the Chattanooga marketing area this means hauling in bulk by tank truck. The location differentials proposed herein are based on the record data relating to the actual cost of hauling milk by bulk tank from outlying plants into the marketing area. They also are comparable with those contained in other Federal milk marketing orders. The rates should apply in each market to all milk assigned to or otherwise classified as Class I.

A method is provided for determining, if necessary, the priority of milk from various plants in allocating milk to Class I for purposes of computing the aggregate of location adjustments to be allowed. Such adjustments would be made for each handler in sequence beginning with those plants nearest Chattanooga.

The value of milk used in manufactured dairy products is affected little, if any, by the location of the plant receiving and processing such milk (in contrast to the situation with respect to Class I fluid milk products). This phenomenon occurs because of a very significant difference in the costs of transporting the two types of dairy products—fluid milk products are bulky, whereas such manufactured products as butter, powder, and cheese, for example, have a high value relative to the cost of transporting them. Hence, prices for Class II products vary little as distance from the consuming market becomes greater. These phenomena are borne out in the record by noting the tendency for comparable prices to be paid for ungraded milk going into similar uses in different parts of the Tennessee milksheds. Accordingly, no adjustment should be made in the Class II price for reason of location of the plant to which the producer milk is delivered.

In line with the economic considerations which affect the value of milk for fluid market uses when it is delivered by farmers to plants located some distance from the consuming market, it is necessary and appropriate that the uniform prices paid producers delivering milk to plants to which location differentials apply also should be reduced by the same rate applicable to Class I milk to reflect the lower value of such milk f. o. b. the point of actual delivery (in contrast to its value when delivered to plants in the marketing area).

Butterfat differentials. In an earlier section of this decision it was concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II milk prices in accordance with the average test of milk in each class by a butterfat differential that will reflect differences of value due to variations in the butterfat content in each product. As pointed out earlier in this decision, the basing point from which such adjustments are made should be 4.0 percent butterfat. This is the basing point used in the Federal milk marketing areas with which the Chattanooga market must be aligned. Since the actual cost to a handler for a given quantity of milk will be the same regardless of what basing point is used, it seems desirable to have them stated in terms comparable with those used for most of the other milk distributed in nearby areas.

Because of the necessity for appropriate price alignment, the butterfat differentials for Class I milk, Class II milk and uniform price to producers should be equivalent to the values provided in nearby Federal order markets for adjusting the specified prices for variations in butterfat content. This is necessary and desirable since the level of class prices proposed in this decision are in alignment with those in the nearby regulated market of Knoxville, Tennessee. For each one-tenth of one percent of butterfat above or below 4.0 percent, the Class I price would be increased or decreased, respectively, by the value obtained by multiplying the Chicago butter price for the preceding month by 0.13. The Class II butterfat differential would be determined by multiplying the Chicago butter price for the current month by 0.115. The butterfat differential used in making payments to producers should be calculated by multiplying the Chicago butter price during the month by 0.12.

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

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

The producer butterfat differential in no way affects the differentials used in calculating a handler's obligation at class prices but merely prorates returns among producers whose milk differs in butterfat test.

Payments to producers—(a) *Type of pool.* The order should provide that the proceeds from the sale of milk in both classes by all handlers be combined and distributed to producers through a "market-wide" type of equalization pool. Under this type of pool each producer will receive minimum prices that are uniform with those received by all producers delivering milk to the Chattanooga area, subject of course, to butterfat and location differentials. The "blend" price, and the "base" and "excess" prices during the months of March through July, will be a weighting of the proportions of all producers' milk paid for at Class I and Class II prices, and will, in effect, return to each producer his share of the sales of the market.

In the Chattanooga market the Chattanooga Area Milk Producers Association, the proponent producers' cooperative association, has for many years sold the milk of its member-producers under a classification pricing and pooling plan generally founded on the same principles as underlie market-wide equalization of producer prices under a Federal milk order program. The proceeds from the sale of milk under the cooperative price plan were combined and distributed through a cooperative-wide pool of their producers. Under the marketing conditions and the organizational structure of the industry, in this market, it is clear that the market-wide type of equalization pool is a necessary part of any effective program to establish and maintain orderly marketing and pricing conditions.

A market-wide pool will permit any handler to bid on such business as that offered by military and government installations and other public institutions and to obtain the supplies for such sales without upsetting the market whenever the business might shift from one handler to another.

Several handlers in the market are not equipped to process reserve and surplus milk in their own plants. Consequently, they must shift any surplus that arises in their plants to other plants for manufacture. It is imperative, therefore, that a pool be established that will provide for an equitable sharing, particularly during the flush production season, of the lower returns that are inevitable with an adequate and necessary reserve of milk. Because many plants do not have facilities for processing reserve and surplus milk, the adoption of an individual-handler pool, wherein plants operating on a Class I basis pay a higher blend price than those who carry the reserve needs of the market, would automatically deter handlers from handling such milk or from equipping their plants for that purpose. The burden of carrying the necessary reserve supplies of milk would continue to be shouldered by only a part of the producers who share in the year around Class I sales in the area.

The producers' cooperative association owns a milk processing plant and assumes the responsibility for, and markets some of, the reserve and surplus milk. A market-wide pool will facilitate the movement of milk supplies by the association between handlers to meet their individual needs or to those nonpool processing plants that can make the most efficient use of such milk. These factors, taken in conjunction with the variations in amount of reserve supplies among plants, all support the adoption of a market-wide pool.

Base-excess plan. A base and excess plan of distributing among producers returns for milk should be employed in connection with the market-wide pool established herein. Although data with respect to receipts of milk are inadequate to determine the exact seasonal variation for the marketing area, the record evidence does indicate that receipts vary widely relative to Class I sales between the summer and winter months. In addition, some handlers have difficulty in utilizing efficiently all milk delivered to them during periods of seasonally high production. Consequently, there is a need for an added incentive to maintain production in the fall and winter months relative to that of the spring and summer months. Base and excess plans are effective means of improving the seasonal pattern of milk deliveries because they relate producer returns directly to delivery of additional milk in the fall and winter as compared with usual deliveries in the spring and summer.

The market has a history of producer participation in base-excess plans and both producers and handlers indicated their approval of this type of incentive for encouraging more even seasonal production.

The base-excess plan proposed herein would establish for each producer a base equal to his average daily deliveries during the five months of September through January. If a producer did not deliver milk to the market during the entire period, the days of actual delivery from the first day of delivery but not less than 120 would be used.

During the months March through July separate uniform prices would be computed for base milk and excess milk for the purpose of allocating Class I sales first to base milk. Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days in the month during which he delivers milk to any pool plant. The excess milk price would be the Class II price except in those months when the total Class I sales exceed the total quantity of base milk. During such months the excess milk price would be a blend of Class I and Class II usage of excess milk. Provision is made for producers who may enter the market after the start of the base-forming period to establish a full base by delivering milk a minimum of 120 days during the specified period. Producers delivering milk for less than 120 days will have their bases calculated by dividing their total deliveries during the base-forming period by 120. The base-operating period (when payments are made for base milk and excess milk) should be limited to the 5-month period, March–July. These are the months in which the production of milk and the use of surplus processing facilities combine to create difficult marketing conditions.

Any producer should be permitted to transfer his entire base provided the market administrator is given advance notice and the transfer is made as of the first of a month. Permitting bases to be so transferred will alleviate situations wherein a producer discontinues the production of milk before the end of the base-paying period of March–July. Such a provision will give a producer added incentive to increase production during the September–January period because he can benefit from all the base he can establish even though he discontinues milk production in the spring. This action will encourage a more level pattern of seasonal production, and is, therefore, compatible with the need for and the purposes of a base-excess plan.

It was proposed that a cooperative association be assigned the collective base of its members so that such base might be pooled. Under this arrangement any under-base deliveries by one member could be used to benefit other members who delivered over-base milk.

This proposal does not conform with the primary purpose of the base-excess plan, namely to encourage even production. There is little reason to believe that any individual producer-member of an association would make a serious effort to increase fall production solely for the benefit of the other members. Nor does the fact that other members would receive base prices for over-base deliveries appear to give them added incentive to level production. It might, in fact, have the opposite effect.

(b) *Payments to individual producers and to members of cooperative associations.* Handlers should make payments to each producer for milk delivered by such producer at the appropriate uniform price. Provision also has been made for partial payments to producers on or before the last day of each month for milk delivered during the first 15 days of that month. Payments due any producer for milk should be paid by the handler to a cooperative association that makes a written request for such payments if the producer has given the cooperative association written authorization, in the form of a contract or in any other form, to collect such payments. The association's request should also agree to indemnify the handler for any loss incurred because of an improper claim. In making such payments for producer milk to a cooperative association the handler should, at the same time, furnish the cooperative association with a statement showing the name of each producer for whom payment is being made to the cooperative association, the volume and average butterfat content of milk delivered by each such producer, and the amount of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary so the cooperative association can make proper distribution of the money it collects to the producer-members for whom it makes collections.

Qualified cooperative associations of dairymen, if they so request, should be permitted to receive payment from handlers for their producer-members as a group. A provision authorizing handlers to make payment directly to such qualified cooperative associations for milk received from producer-members is necessary to enable the associations to carry out their essential functions authorized by the enabling act. A cooperative association, if it is to carry out these essential functions, must have full authority in the collective bargaining and selling of members' milk.

The record shows that the cooperative association operating in the Chattanooga area markets surplus producer milk during months of flush production. This milk may be sold within or outside the marketing area or used within the association's own plant. Such sales or use may result in financial losses or gains to the association, hence the association must be in a position to spread such losses or gains over the entire membership if it is to handle such milk effectively and efficiently. The Agricultural Marketing Agreement Act authorizes a qualified association to collect payments on behalf of all its members for milk caused to be marketed by such association and to reblend the entire sales. The order should provide that payment to such a cooperative association is a proper satisfaction of the payments required by the order to be made to individual producer-members.

(c) *Producer-settlement fund.* Since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers or cooperative associations, some method of balancing these amounts is necessary. A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations should pay the difference into the producer-settlement fund; and all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal, except for minor differences that may result from rounding of uniform prices. In order to permit this rounding of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reasonable reserve should be held in the producer-settlement fund at all times. The reserve, which would be adjusted each month, is established in the attached order at not less than four nor more than five cents per hundredweight of producer milk in the pool for the month. The unobligated balance remaining in the fund from the preceding month would be added to the values used in calculating the uniform prices each month. The amount of the reserve should be sufficient to enable the producer-settlement fund to perform its function efficiently.

If, at any time, the balance in the producer-settlement fund is insufficient to cover payments due to all handlers from the producer-settlement fund, payments to such handlers should be reduced uniformly per hundredweight of milk. The handlers may then reduce payments to producers by an equivalent amount per hundredweight. Amounts remaining due such handlers from the producer-settlement fund should be paid as soon as the balance in the fund is sufficient, and handlers should then complete payments to producers. In order to reduce the possibility of this occurring, milk received by any handler who has not made payments required of him into the producer-settlement fund should not be considered in the computation of the uniform price in subsequent months until such handler has completed all delinquent payments.

(e) *Other administrative provisions.* Certain other provisions are needed in the order to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

Terms and definitions. In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Other terms defined in the proposed order, such as "Act", "Secretary", "Department of Agriculture", "Person", "Cooperative association", and "Chicago butter price", are common to many other Federal milk orders.

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

Records and reports. Provisions should be included in the order to advise handlers that they are required to maintain adequate records of their operations and to make the reports necessary to establish classification of producer milk and payments due for such milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator.

It should be provided that the market administrator report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the utilization of members' milk in each handler's plant will be prorated to each class in the proportion that total receipts of producer milk were used in each class by such handler. In addition to the regular reports of handlers, provision is made for the handler, prior to the diversion of the milk of a producer, to notify the market administrator and the cooperative association, if such producer is a member of an association, of his intention to divert such milk. These reports are necessary if a cooperative association or the market administrator are to carry out marketing services for producers.

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

It is necessary that handlers retain records to prove the utilization of the milk received from producers and that proper payments were made therefor. Since the books of all handlers associated with the market cannot be audited immediately after the milk has been delivered to a plant, it is necessary that such records be kept for a reasonable period of time.

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

Expenses of administration. Each handler should be required to pay the market administrator as his pro rata share of the cost of administering the order not more than 4 cents per hundredweight or such lesser amounts as the Secretary may, from time to time, prescribe on (a) producer milk (including such handler's own production), (b) other source milk in pool plants which is allocated to Class I milk and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers' own production) and other source milk allocated to Class I milk.

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

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 4 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 4 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

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

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

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

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. This maximum rate of deduction is the same as the maximum rate provided for in the Knoxville and Nashville marketing areas. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

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

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

Order of the Secretary Directing That a Referendum Be Conducted Among the Producers Supplying Milk to the Chattanooga, Tennessee, Marketing Area; Determination of a Representative Period and Designation of an Agent To Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c 19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order regulating the handling of milk in the Chattanooga, Tennessee marketing area) who, during the month of April 1956, were engaged in the production of milk for sale in the marketing area specified in the aforesaid proposed order to determine whether such producers favor the issuance of an order which is part of the decision of the Secretary of Agriculture filed herewith.

The month of April 1956 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order regulating the handling of milk in the Chattanooga, Tennessee marketing area in the manner set forth in the attached order is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this referendum order is issued.

Marketing Agreement and Order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Chattanooga, Tennessee Marketing Area", and "Order Regulating the Handling of Milk in the Chattanooga, Tennessee Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders, have been met.

It is hereby ordered that all of this decision, except the marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 26th day of June 1956.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] Regulating the Handling of Milk in the Chattanooga, Tennessee, Marketing Area

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

§ 1000.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and order regulating the handling of milk in the Chattanooga, Tennessee, marketing area. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

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

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

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct or affect in-

terstate commerce in milk or its products; and

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expenses, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to all butterfat and skim milk contained in (i) producer milk, (ii) other source milk allocated to Class I milk pursuant to § 1000.41 (a), or (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant as determined pursuant to § 1000.62.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Chattanooga, Tennessee marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 1000.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Markting Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 1000.2 *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.

§ 1000.3 *Chattanooga, Tennessee, marketing area.* "Chattanooga, Tennessee, marketing area", hereinafter called the "marketing area", means all of the territory included within the boundaries of Hamilton, McMinn and Bradley counties, all in the State of Tennessee.

§ 1000.4 *Person.* "Person" means any individual, partnership, corporation, association or any other business unit.

§ 1000.5 *Approved dairy farmer.* "Approved dairy farmer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority.

§ 1000.6 *Producer.* "Producer" means any approved dairy farmer who produces milk which is received during the month at a pool plant: *Provided,* That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of March through July 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 pool plant at the location of the plant from which diverted.

§ 1000.7 *Pool plant.* "Pool plant" means any:

(a) Milk distributing plant approved or recognized by any health authority having jurisdiction in the marketing area for the receiving or processing of Grade A milk and from which Class I milk equal to not less than 50 percent of its receipts of milk from other pool plants and from approved dairy farmers is disposed of during the month on a route(s) and from which Class I milk equal to not less than 20 percent of its total Class I disposition is disposed of during the month on a route(s) in the marketing area.

(b) Milk supply plant which, during the month, ships fluid milk products approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label in a volume equal to not less than 50 percent of its receipts of milk from approved dairy farmers to a plant specified in paragraph (a) of this section: *Provided,* That any plant which qualifies as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July: *And provided further,* That any such plant may withdraw from pool plant status for any month in the March-July period if the operator of such plant files with the market administrator prior to the first day of such month a written request for such withdrawal.

§ 1000.8 *Nonpool plant.* "Nonpool plant" means any milk plant other than a pool plant.

§ 1000.9 *Handler.* "Handler" means: (a) Any person in his capacity as the operator of one or more pool plants; or (b) a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1000.6.

§ 1000.10 *Producer-handler.* "Producer-handler" means any approved dairy farmer who operates a distributing plant in which he processes milk from his own production, and distributes all or a portion of such milk within the marketing area as Class I milk, but who receives no milk from other dairy farmers or from nonpool plants.

§ 1000.11 *Producer milk.* "Producer milk" means only that skim milk and butterfat contained in milk (a) received at the pool plant directly from producers, or (b) diverted from a pool plant to a nonpool plant (except a nonpool plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 1000.6.

§ 1000.12 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk and skim milk drinks, yogurt, cream or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream and ice milk mix and aerated cream).

§ 1000.13 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of said milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

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

§ 1000.14 *Route.* "Route" means any delivery (including delivery by a vendor or a sale from a plant or plant store) of milk or any milk product classified as Class I milk pursuant to § 1000.41 (a) other than a delivery to any milk processing plant.

§ 1000.15 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

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

(b) To have and to be exercising full authority in the sale of milk of its members.

§ 1000.16 *Chicago butter price.* "Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 1000.17 *Base milk.* "Base milk" means milk received at pool plants from a producer during any of the months of March through July which is not in excess of such producer's daily average base computed pursuant to § 1000.90, multiplied by the number of days in such month.

§ 1000.18 *Excess milk.* "Excess milk" means milk received at pool plants from a producer during any of the months of March through July 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 § 1000.90.

§ 1000.19 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency that may be authorized by act of Congress or by executive order to perform the price reporting functions of the United States Department of Agriculture.

MARKET ADMINISTRATOR

§ 1000.25 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1000.26 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1000.27 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

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

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

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

(d) Pay out of the funds received pursuant to § 1000.86: (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 § 1000.85 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 section, 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, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 1000.30 and 1000.31 or payments pursuant to §§ 1000.80 through 1000.86;

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

(h) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(i) Verify all reports and payments of 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 by such other means as are necessary;

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information; and

(k) 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, and mail to each handler at his last known address a notice of, the following:

(1) The 5th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the Class II milk price, and the Class II butterfat differential, both for the preceding month, and

(2) The 10th day of each month, the uniform prices, computed pursuant to §§ 1000.71 and 1000.72, and the producer butterfat differential, both for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 1000.30 *Reports of sources 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 pool plants for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

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

(1) Producer milk;

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

(3) Other source milk;

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

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including separate statements as to the disposition of Class I milk outside the marketing area, and inventories of fluid milk products on hand at the end of the month.

§ 1000.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

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

(1) On or before the 6th day of each of the months of April through August, the aggregate quantity of base milk received at his pool plant(s) for the preceding month,

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

(3) On or before the day prior to diverting producer milk pursuant to § 1000.6, his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted, and

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

§ 1000.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

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

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

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

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

§ 1000.33 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1000.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat to be reported for pool plants pursuant to § 1000.30 (a) shall be classified each month pursuant to the provisions of §§ 1000.41 through 1000.45.

§ 1000.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1000.42 through 1000.45, 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 from the plant 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; and

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than a fluid milk product; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) skim milk disposed of and used for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator; and (4) in shrinkage not to exceed 2 percent, respectively, of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1000.6) and other source milk: *Provided*, That if shrinkage of skim milk or butterfat is less than such 2 percent it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1000.6) and other source milk respectively.

§ 1000.42 *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 as Class II milk.

§ 1000.43 *Transfers.* (a) Skim milk and butterfat transferred to a pool plant of another handler (except a producer-handler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat 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 § 1000.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after the subtraction of other source milk pursuant to § 1000.45;

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

(c) Skim milk and butterfat transferred or diverted in bulk form as milk or skim milk to a nonpool milk plant shall be classified Class I milk unless, (1) the transferee-plant is located less than 250 miles from the City Hall in Chattanooga, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, (2) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1000.30 for the month within which such transaction occurred, (3) the operator of the nonpool 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 (4) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *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; and

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant 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 § 1000.30, (2) the handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only" and the shipment is so invoiced, (3) the handler gives the market administrator sufficient notice to allow him to verify such shipment, (4) the operator of the nonpool 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 (5) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *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.

§ 1000.44 *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 submitted by each handler pursuant to § 1000.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: *Provided*, That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1000.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1000.41 (b),

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk,

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk,

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventories of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk,

(5) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 1000.43 (a),

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

(7) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

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

MINIMUM PRICES

§ 1000.50 *Basic formula price.* The basic formula price per hundredweight (computed to the nearest cent) to be used in determining the price for Class I milk pursuant to § 1000.51 (a) shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to paragraph (a), (b), or (c) of this section, or § 1000.51 (b) (1).

(a) To the arithmetical 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 plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

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

and an amount computed by multiplying the butterfat differential computed pursuant to § 1000.73, by 5.

(b) The price per hundredweight computed as follows:

(1) Multiply the Chicago butter price by 6;

(2) Add an amount equal to 2.4 times the arithmetical 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.

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

§ 1000.51 *Class prices.* Subject to the provisions of §§ 1000.52 and 1000.53, the minimum prices per hundredweight of milk containing 4 percent butterfat, to be paid by each handler for milk received at his pool plant from producers, during the month, shall be as follows:

(a) *Class I milk price.* For each month during an eighteen month period following the effective date of this order, the minimum price per hundredweight of Class I milk shall be the basic formula price for the preceding month, plus $1.75.

(b) *Class II milk price.* For the months of February through August, the Class II milk price shall be the price computed pursuant to subparagraph (1) of this paragraph, rounded to the nearest cent. For all other months, it shall be the price computed pursuant to subparagraph (1) of this paragraph, or the price computed pursuant to § 1000.50 (c), whichever is higher.

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

Company and Location

Kraft Foods Co., Fayetteville, Tenn.
Pet Milk Co., Greensville, Tenn.
Carnation Co., Murfreesboro, Tenn.
Borden Co., Lewisburg, Tenn.

§ 1000.52 *Butterfat differentials to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices calculated pursuant to § 1000.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I milk price.* Multiply the Chicago butter price for the preceding month by 0.13; and

(b) *Class II milk price.* Multiply the Chicago butter price for the month by 0.115: *Provided*, That such butterfat differential shall not exceed the result obtained by dividing the Class II price, pursuant to § 1000.51 (b), by 40.

§ 1000.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 65 miles or more from the City Hall of Chattanooga, Tennessee, by shortest hard-surfaced highway distance, as determined by the market administrator, and which is assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 1000.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the City Hall of Chattanooga, Tenn. (miles):	*Rate per hundredweight (cents)*
65 but not more than 75	15.0
For each additional 10 miles or fraction thereof an additional	1.5

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 1000.45 (a) (1) through (4), and the comparable steps in § 1000.45 (b) for such plant, such assignment to the transferring plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1000.54 *Rate of compensatory payments.* The rate of compensatory payment per hundredweight shall be calculated as follows:

(a) For the months of March through July, subtract the Class II price, adjusted by the Class II butterfat differential, from the Class I price, adjusted by the Class I butterfat differential, and the Class I location differential of the plant at which the milk was received from farmers.

(b) For the months of August through February, subtract the uniform price to producers from the Class I price.

§ 1000.55 *Use of equivalent prices.* If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1000.60 *Producer-handlers.* Sections 1000.40 through 1000.45, 1000.50 through 1000.53, 1000.61 and 1000.62, 1000.70 through 1000.75, and 1000.80 through 1000.87 shall not apply to a producer-handler.

§ 1000.61 *Plants subject to other Federal orders.* Upon application to the market administrator and a subsequent determination by the Secretary, a plant specified in paragraph (a) or (b) of this section shall be treated as a nonpool 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 and allow verification of such reports by the market administrator.

(a) Any distributing plant 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 pool plants or nonpool plants) in the Chattanooga, Tennessee, marketing area than in the marketing area regulated pursuant to such order; and

(b) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a pool plant for each of the preceding months of August through February.

§ 1000.62 *Operators of nonpool plants.* An operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the act, shall, on or before the 12th day after the end of the month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of in the form of fluid milk products from such nonpool plant to retail or wholesale outlets (including deliveries by vendors and sales through plant stores) in the marketing area during the month by the rate of compensatory payment calculated pursuant to § 1000.54.

DETERMINATION OF PRICES TO PRODUCERS

§ 1000.70 *Computation of the value of producer milk for each handler.* For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1000.45 by the applicable class price, total the resulting amounts, and add any amount necessary to reflect adjustments in location differential allowance required pursuant to the proviso of § 1000.53;

(b) Add an amount computed by multiplying the hundredweight of skim milk and butter fat subtracted from Class I milk pursuant to § 1000.45 (a) (2) and (b) by the rate of compensatory payment as determined pursuant to § 1000.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 1000.45 (a) (7) 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 milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1000.45 (a) (5) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a)

(4) and (b) for the current month, whichever is less, respectively.

§ 1000.71 *Computation of the uniform price.* For each of the months of August through February, the market administrator shall compute the uniform price per hundredweight of producer milk of 4.0 percent butterfat content, f. o. b. market, as follows:

(a) Combine into one total the values computed pursuant to § 1000.70 for the producer milk of all handlers who submit reports prescribed in § 1000.30 and who are not in default of payments pursuant to § 1000.80 or § 1000.82;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 1000.73, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 1000.80 (a) (2);

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Add the total amount of payment due pursuant to § 1000.62;

(f) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

(g) Subtract not less than 4 cents nor more than 5 cents.

§ 1000.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, f. o. b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 1000.30, and who are not in default of payments pursuant to § 1000.80 or § 1000.82 as follows: (1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price, (2) multiply the remaining hundredweight quantity of excess milk by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content received from producers;

(c) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk from the total value of producer milk for the month as determined according to the calculations set forth in § 1000.71 (a) through (e);

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content f. o. b. market.

§ 1000.73 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer 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 by 0.12 the Chicago butter price during the month, adjusted to the nearest one-tenth of a cent.

§ 1000.74 *Location differential to producers.* The applicable uniform prices to be paid for producer milk received at a pool plant located 65 miles or more from the City Hall of Chattanooga, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received at the rates set forth in § 1000.53.

§ 1000.75 *Notification of handlers.* On or before the 10th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1000.30, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals thereof;

(b) For the months of March through July the amounts and value of his base and excess milk respectively, and the totals thereof;

(c) The uniform price(s) computed pursuant to §§ 1000.71 and 1000.72 and the butterfat differential computed pursuant to § 1000.73; and

(d) The amounts to be paid by such handler pursuant to §§ 1000.82, 1000.85 and 1000.86, or § 1000.62 and the amount due such handler pursuant to § 1000.83.

PAYMENTS

§ 1000.80 *Time and method of payment for producer milk.* (a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph,

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 1000.85, (iii) plus or minus adjustments for errors made in previous payments made to such producers, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1000.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month, and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of March through July the total pounds of base milk received, (iii) the amount or rate and nature of any deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1000.84.

§ 1000.81 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1000.62, 1000.82 and 1000.84, and out of which he shall make all payments pursuant to §§ 1000.83 and 1000.84: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1000.82 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 1000.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 1000.83 *Payments out of the producer-settlement fund.* On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 1000.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1000.84 *Adjustment of errors in payment.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1000.82, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 1000.83, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1000.80, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1000.85 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1000.80, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 1000.86 *Expenses of administration.* On or before the 15th day after the end of each month, each handler shall pay to the market administrator for each of his pool plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, (b) other source milk allocated to Class I milk pursuant to § 1000.45 (a) (2) and (b), or (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant as determined pursuant to § 1000.62.

§ 1000.87 *Termination of obligations.* The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall 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 representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his 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; and

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

DETERMINATION OF BASE

§ 1000.90 *Computation of daily average base for each producer.* Subject to the rules set forth in § 1000.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through January immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of January, inclusive, or by 120, whichever is more.

§ 1000.91 *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 calculated pursuant to § 1000.90 to each person for whose account producer milk was delivered to pool plants during the months of September through January; and

(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, 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, and by the person to whom such base is to be transferred.

§ 1000.92 *Announcement of established bases.* On or before March 1 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.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1000.100 *Effective time.* The provisions of this part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1000.101 *Suspension or termination.* The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 1000.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1000.103 *Liquidation.* Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1000.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1000.111 *Separability of provisions.* If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 56-5196; Filed, June 29, 1956; 8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11677]

RADIO BROADCAST SERVICES

NOTICE OF EXTENSION OF TIME FOR FILING COMMENTS

In the matter of amendment of §§ 3.66, 3.274 and 3.572 of the Commission's rules and regulations relating to remote control operation of certain standard, FM and noncommercial educational FM broadcast stations.

1. The Commission has before it for consideration the request of the National Association of Broadcast Employees and Technicians filed June 14, 1956, for extension of time in which to file comments in the above-entitled proceeding.

2. In support of its request the NABET states that it proposes to file comments in this proceeding; that it has elicited information from transmitter operators in a number of key stations throughout the country in connection with the rule making proposal; and that a further extension of time for filing comments is necessary in this connection.

3. The Commission is of the view that a further extension of time for the filing of comments in this proceeding would serve the public interest, convenience and necessity.

4. In view of the foregoing: *It is ordered*, That the time for filing comments in the above-entitled proceeding is extended to August 2, 1956; and that the time for filing replies to such comments is extended to 20 days thereafter.

Adopted: June 25, 1956.

Released: June 26, 1956.

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

[F. R. Doc. 56-5183; Filed, June 29, 1956; 8:45 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF WITHDRAWAL OF PETITION FOR ESTABLISHMENT OF TOLERANCES FOR RESIDUES OF LINDANE

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the general regulations for setting tolerances and granting exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR 120.8), the Benzene Hexachloride Committee of the National Agricultural Chemicals Association, P. O. Box 333, Falls Church, Virginia, has withdrawn its petition for establishment of tolerances for residues of lindane, notice of which was published in the FEDERAL REGISTER of February 10, 1956 (21 F. R. 975). This withdrawal is without prejudice to a future filing.

Dated: June 26, 1956.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F. R. Doc. 56-5199; Filed, June 29, 1956; 8:48 a. m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF FILING OF PETITION FOR EXEMPTION FROM THE NECESSITY OF TOLERANCES FOR RESIDUES OF ALLETHRIN

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by Food Machinery and Chemical Corporation, Middleport, New York, and McLaughlin Gormley King Company, Minneapolis, Minnesota, proposing that the pesticide chemical allethrin (allyl homolog of cinerin I) be exempted from the requirement of tolerances for residues from use after harvest on the following raw agricultural commodities: Apples, blackberries, blueberries, boysenberries, cherries, crabapples, currants, dewberries, figs, gooseberries, grapes, guavas, huckleberries, loganberries, mangoes, muskmelons, oranges, peaches, pears, pineapples, plums, prunes, raspberries, tomatoes.

The analytical method proposed in the petition for determining residues of allethrin is "Estimation of Micro Quantities of Pyrethroids," published in Analytical Chemistry, Volume 26, pages 604–607 (1954).

Dated: June 26, 1956.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F. R. Doc. 56-5200; Filed, June 29, 1956; 8:48 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

COMPAGNIE MARITIME DES CHARGEURS REUNIS AND FARRELL LINES INC.

NOTICE OF AGREEMENT FILED WITH BOARD FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, 39 Stat. 733, 46 U. S. C. 814.

Agreement No. 8096, between Compagnie Maritime des Chargeurs Reunis and Farrell Lines Incorporated, covers the transportation of cargo under through bills of lading between Harbel and Cape Palmas, Liberia, on the one hand, and United States Atlantic ports, on the other hand, with transhipment at Monrovia, Liberia.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: June 27, 1956.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 56-5232; Filed, June 29, 1956; 8:54 a. m.]

Office of the Secretary

ORVILLE K. SCHMIED

REPORT OF APPOINTMENT AND STATEMENT OF FINANCIAL INTERESTS

Report of appointment and statement of financial interests required by section 710 (b) (6) of the Defense Production Act of 1950, as amended.

Report of Appointment

1. Name of appointee: Orville K. Schmied.
2. Employing agency: Department of Commerce, Business and Defense Services Administration.
3. Date of appointment: May 29, 1956.
4. Title of position: Deputy Director, Aluminum and Magnesium Division.
5. Name of private employer: Cochran Foil Company, Louisville, Kentucky.

CARLTON HAYWARD, *Director of Personnel.*

Statement of Financial Interests

6. Names of any corporations of which the appointee is an officer or director or within 60 days preceding appointment has been an officer or director, or in which the appointee owns or within 60 days preceding appointment has owned any stocks, bonds, or other financial interests; any partnerships in which the appointee is, or within 60 days preceding appointment was, a partner; and any other businesses in which the appointee owns, or within 60 days preceding appointment has owned, any similar interest.

Cochran Foil Company.
R. J. Reynolds Tobacco Company.
Dow Chemical Company.
Mesta Machine Company.
MCP Corporation.
Continental Baking Corporation.
Fuller Manufacturing Company.
Riegel Paper Company.
Belknap Hardware & Mfg. Company.
Standard Oil of Kentucky.
Television Electronic Fund, Inc.
Illinois Toll (Bond).
Ohio Turnpike (Bond).
Continental Air Filters, Inc.
Seapak Corporation.
South Park Development Company.
Bank Deposits.

Dated: May 29, 1956.

[SEAL] ORVILLE K. SCHMIED.

[F. R. Doc. 56-5211; Filed, June 29, 1956; 8:50 a. m.]

ROGER H. MARTIN

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of January 7, 1956, 21 F. R. 163.

A. Deletions: No change.
B. Additions: No change.

This statement is made as of June 12, 1956.

[SEAL] ROGER H. MARTIN.

[F. R. Doc. 56-5212; Filed, June 29, 1956; 8:50 a. m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order No. 167-20 (CGFR 56-25)]

COMMANDANT, U. S. COAST GUARD

DELEGATION OF FUNCTIONS RELATING TO INSPECTION OF CERTAIN VESSELS

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 and 14 U. S. C. 631, there are transferred to the Commandant, U. S. Coast Guard, the functions of the Secretary of the Treasury under the act of May 10, 1956 (Pub. Law 519, 84th Cong.), an act which relates to the inspection of certain vessels carrying passengers.

The Commandant may make provision for the performance by subordinates in the Coast Guard of any of the functions transferred except the functions of prescribing fees, charges, rules, and regulations.

Dated: June 18, 1956.

[SEAL] DAVID W. KENDALL, *Acting Secretary of the Treasury.*

[F. R. Doc. 56-5208; Filed, June 29, 1956; 8:50 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. F-26]

LOCKHEED AIRCRAFT CORPORATION

NOTICE OF APPLICATION FOR UTILIZATION FACILITY LICENSE

Please take notice that on June 20, 1956 Lockheed Aircraft Corporation, Van Nuys, California, filed an application under section 104c of the Atomic Energy Act of 1954 for a license to construct, possess and operate a critical experiment facility to be located on the campus of Stanford University, Palo Alto, California.

Dated at Washington, D. C., this 21st day of June 1956.

For the Atomic Energy Commission.

H. L. PRICE, *Director, Division of Civilian Application.*

[F. R. Doc. 56-5181; Filed, June 29, 1956; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

VARIOUS OFFICIALS

DELEGATIONS OF AUTHORITY

1. Authority is hereby delegated to the Deputy Administrator to exercise, in the absence of the Administrator, as Acting Administrator, any of the powers of the Administrator.
2. In the absence of the Administrator and the Deputy Administrator, the powers of the Administrator shall be exercised, as Acting Administrator, by one of the two Assistant Administrators, as designated by the Administrator.
3. In the absence of the Administrator, Deputy Administrator and the Assistant Administrators, the powers of the Administrator shall be exercised, as Acting Administrator, by such person as shall be designated by the Administrator.

Issued this 26th day of June 1956.

[SEAL] DAVID A. HAMIL, *Administrator.*

[F. R. Doc. 56-5198; Filed, June 29, 1956; 8:48 a. m.]

DEPARTMENT OF DEFENSE

Office of the Secretary of the Army

VIVIAN O. FIGGE

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of February 1, 1956, in my financial interests as reported in the FEDERAL REGISTER of 20 F. R. 10174, December 31, 1955.

A. Deletions: Kahl Investment Corporation, Davenport, Iowa, Director.
B. Additions: Kahl Building, Davenport, Iowa, Trustee controlling a fractional interest in the fees of the building for my children.

Dated: June 18, 1956.

VIVIAN O. FIGGE.

[F. R. Doc. 56-5260; Filed, June 29, 1956; 8:56 a. m.]

HARRY WILLIAM GETZ

STATEMENT OF CHANGES IN FINANCIAL INTEREST

In accordance with the requirements of Section 710 (b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of February 1, 1956, in my financial interests as reported in the FEDERAL REGISTER of 20 F. R. 10174, December 31, 1955.

A. Deletions: No change.
B. Additions: No change.

Dated: June 14, 1956.

HARRY WILLIAM GETZ.

[F. R. Doc. 56-5261; Filed, June 29, 1956; 8:56 a. m.]

JAMES M. HUTCHINSON

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of February 1, 1956, in my financial interests as reported in the FEDERAL REGISTER of 20 F. R. 10174, December 31, 1955.

A. Deletions: No change.
B. Additions: No change.

Dated: June 15, 1956.

JAMES M. HUTCHINSON.

[F. R. Doc. 56-5262; Filed, June 29, 1956; 8:56 a. m.]

HARRY S. ROBINSON

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) of the Defense Production Act of 1950, as amended, and Executive Order No. 10647 of November 28, 1955, the following changes have taken place as of February 1, 1956 in my financial interests as reported in the FEDERAL REGISTER of 20 F. R. 10175, December 31, 1955.

A. Deletions: No change.
B. Additions: Stockholder: American Gas & Electric Company.

Dated: June 1, 1956.

HARRY S. ROBINSON.

[F. R. Doc. 56-5207; Filed, June 29, 1956; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11670; FCC 56M-625]

NEWS ON THE AIR, INC.

ORDER CONTINUING HEARING CONFERENCE

In re application of News on the Air, Inc., Port Clinton, Ohio, for construction permit; Docket No. 11670; File No. BP-9977.

The Hearing Examiner has under consideration a pleading filed June 20, 1956, by the above-entitled applicant requesting that the date presently specified for the exchange of certain exhibits be changed from June 21 to July 30, 1956, and that the date for further pre-hearing conference be changed from July 9 to August 6, 1956.

While the proper number of copies of this request were not filed with the Commission, copies were served on all parties to the proceeding. The Hearing Examiner is advised that there is no objection to the granting of the request for additional time. The Hearing Examiner's schedule, however, is such that a date other than the one requested for further pre-hearing must be specified.

It is ordered, This the 21st day of June 1956, that the date for the exchange of the engineering exhibits in this proceeding is changed from June 21, 1956 to July 30, 1956 and the date for further pre-hearing conference is changed from July 9, 1956 to September 20, 1956.

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

[F. R. Doc. 56-5184; Filed, June 29, 1956; 8:45 a. m.]

[Docket Nos. 11697, 11698; FCC 56M-624]

VOICE OF BERRIEN COUNTY AND LAKE BROADCASTERS

ORDER CONTINUING HEARING

In re applications of E. Harold Munn, Jr., and E. Harold Munn, Sr., d/b as Voice of Berrien County, Niles, Michigan, Docket No. 11697, File No. BP-9617; Maurice Humphrey, Carl L. Benson, Richard W. Lee and Ralph W. Newland d/b as Lake Broadcasters, St. Joseph, Michigan, Docket No. 11698, File No. BP-9967; for construction permits.

Pursuant to a pre-hearing conference with counsel held June 13, 1956, in the above-entitled proceeding, *It is ordered*, This 22d day of June 1956, that the exchange of exhibits herein will be accomplished not later than September 5, 1956, and that the hearing now scheduled for July 16, 1956, will be continued to September 10, 1956, at 10 o'clock a. m. in the offices of the Commission, Washington, D. C.

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

[F. R. Doc. 56-5185; Filed, June 29, 1956; 8:46 a. m.]

[Docket No. 11736, 11737; FCC 56M-626]

PAUL A. BRANDT AND LIVINGSTON BROADCASTING CO.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Paul A. Brandt, West Branch, Michigan, Docket No. 11736, File No. BP-10109; M. H. Wirth, tr/as Livingston Broadcasting Co., Howell, Michigan, Docket No. 11737, File No. BP-10283; for construction permits.

Pursuant to Rules 1.813 and 1.841, on the Hearing Examiner's own motion: *It is ordered*, This 22d day of June 1956, that a prehearing conference is scheduled for Friday, July 6, 1956, at 10:00 a. m., in the offices of the Commission, Washington, D. C.

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

[F. R. Doc. 56-5186; Filed, June 29, 1956; 8:46 a. m.]

[Docket Nos. 11736, 11737; FCC 56M-637]

PAUL A. BRANDT AND LIVINGSTON BROADCASTING CO.

ORDER CONTINUING HEARING CONFERENCE

In re applications of Paul A. Brandt, West Branch, Michigan, Docket No. 11736, File No. BP-10109; M. H. Wirth, tr/as Livingston Broadcasting Co., Howell, Michigan, Docket No. 11737, File No. BP-10283; for construction permits.

Upon the oral request of counsel for Station WEXL, and with the consent of counsel for the applicants: *It is ordered*, This 26th day of June 1956, that the prehearing conference now scheduled for July 6, 1956, is continued to Wednesday, July 18, 1956, at 2:00 p. m., in the offices of the Commission, Washington, D. C.

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

[F. R. Doc. 56-5227; Filed, June 29, 1956; 8:53 a. m.]

[Docket Nos. 11180, 11718; FCC 56M-635]

BILL MATHIS AND KEY CITY BROADCASTERS

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Bill Mathis, Abilene, Texas, Docket No. 11180, File No. BP-8917; Howard Barrett and Robert H. Nash d/b as Key City Broadcasters, Abilene, Texas, Docket No. 11718, File No. BP-10278; for construction permits.

It is ordered, This 26th day of June 1956, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a pre-hearing conference pursuant to the provisions of § 1.813 of the Commission's rules, at the offices of the Commission in Washington, D. C., at 10 o'clock a. m., July 24, 1956.

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

[F. R. Doc. 56-5228; Filed, June 29, 1956; 8:53 a. m.]

[Docket No. 11735; FCC 56M-636]

NEVADA TELECASTING CORP. (KAKJ)

ORDER CONTINUING HEARING

In the matter of revocation of television construction permit of Nevada Telecasting Corporation (KAKJ), Reno, Nevada, Docket No. 11735.

The Hearing Examiner having under consideration the Order to Show Cause, dated June 25, 1956 and released June 15, 1956, scheduling hearing for July 13, 1956;

It appearing that the csheduled hearing date is less than 30 days from the date of release of the Order to Show Cause, and that the permittee is afforded a period of 30 days from receipt of the Order to respond;

It is ordered, This 26th day of June 1956, on the Hearing Examiner's own motion, that the hearing date is continued from July 13, 1956, to Monday, July 23, 1956, at 10:00 a. m., in the offices of the Commission, Washington, D. C.

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

[F. R. Doc. 56-5229; Filed, June 29, 1956; 8:53 a. m.]

[Cuba Change List 3]

CUBAN RADIO STATIONS

LIST OF NEW STATIONS CHANGES, MODIFICATIONS, AND DELETIONS OF EXISTING STATIONS

Notification of new Cuban Radio Stations, and of changes, modification and deletions of existing stations, in accordance with Part III, Section F, of the North American Regional Broadcasting Agreement Washington, D. C. 1950.

May 23, 1956.

NEW CUBAN RADIO STATIONS

Call letters	Location	Power (kw)	Antenna	Schedule	Class	Proposed date of change or commencement of operation
		610 kilocycles				
New	Consolacion del Sur, Pinar del Rio (vide: 880 kc.).	1	ND	U	III	Delete assignment.
		880 kilocycles				
CMAO	Consolacion del Sur, Pinar del Rio (PO: 610 kc/s).	1	ND	U	II	Assignment of call letters.
		1120 kilocycles				
CMDZ	Santiago de Cuba, Oriente	0.25	ND	U	II	Do.
		1200 kilocycles				
CMDD	Bayamo, Oriente	0.25	ND	U	II	Do.

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

[F. R. Doc. 56-5187; Filed, June 29, 1956; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3938]

STANDARD SULPHUR CO.

NOTICE OF APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

JUNE 26, 1956.

In the matter of Standard Sulphur Company, common stock, File No. 1-3938.

The above named issuer, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to withdraw the specified security from listing and registration on the American Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The listing application for this stock was approved by the American Stock Exchange on February 2, 1956, on which date said Exchange forwarded to the Commission its certification of the Form 10 registration application. Registration pursuant to said certification became effective by lapse of the usual 30 day waiting period, on or about March 5, 1956. The stock was never admitted to dealings on the American Stock Exchange, pending the revision of Form 10 application. The issuer states that in order to verify the reserves claimed in such application, it would be necessary to drill many exploratory wells, the cost of which would be extensive, and in areas where it would not be prepared to produce for a long time.

Upon receipt of a request, on or before July 12, 1956, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-5188; Filed, June 29, 1956; 8:46 a. m.]

[File No. 31-633]

LINCOLN CORP.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION

JUNE 26, 1956.

Notice is hereby given that Lincoln Corporation ("Lincoln") has filed with this Commission an application under sections 3 (a) (3) and/or 3 (a) (5) of the Public Utility Holding Company Act of 1935 ("act") for an order exempting it as a holding company, and each of its subsidiary companies as such, from the provisions of the act.

All interested persons are referred to the application on file in the office of the Commission for a statement of the basis for the request for exemption, which is summarized below.

Lincoln, a Delaware corporation, is a holding company which through wholly-owned subsidiaries is engaged in coal mining operations in the State of Wyoming. Its principal subsidiary, The Kemmerer Coal Company ("Kemmerer Coal"), conducts the mining operations. Electricity required by Kemmerer Coal in its coal mining operations is obtained from Lincoln's subsidiary, Lincoln Service Corporation ("Service Corporation"). Service Corporation, a Wyoming corporation organized in 1929, is a public-utility company, and is subject to the jurisdiction of the Wyoming Public Service Commission.

Prior to 1929, Kemmerer Coal operated a steam plant and small electric generating units in connection with its coal mining operations, and furnished limited electric service to the town of Kemmerer, Wyoming. For reasons of accounting under the Wyoming utility statutes, it was deemed expedient to separate the utility operations from the coal operations. Accordingly, Service Corporation was organized in 1929 and acquired the electric utility properties of Kemmerer Coal and associated companies. All of Service Corporation's stock is owned by Lincoln.

Service Corporation, in addition to supplying the electric energy requirements of Kemmerer Coal and certain other minor industries, provides electric utility services to the towns of Kemmerer, Diamondsville, and Frontier, and environs, all in the State of Wyoming.

By reason of Kemmerer Coal's change from underground mining to open-cut stripping operations, and a consequent decrease in its electric power requirements, the revenues received by Service Corporation from Kemmerer Coal have declined steadily over the years from 52 percent in the period 1931-35 to 12.1 percent in 1955. During the year 1955 the only transaction between Service Corporation and Lincoln and its other subsidiaries was the sale of electric energy to Kemmerer Coal. The total revenues from such sale aggregated $25,000. During the years 1951-55 the percentage of Service Corporation's net income to the aggregate income of all Lincoln's subsidiaries ranged from 2.6 percent in 1951 to 13.7 percent in 1953. In 1954 the percentage was 3.1 percent, and in 1955 Service Corporation experienced a net loss of $18,133.

At December 31, 1955, the book value of the assets of all of Lincoln's subsidiaries aggregated $7,842,434, of which those of Kemmerer Coal amounted to $5,508,804, or approximately 70 percent, and those of Service Corporation amounted to $819,886, or approximately 10.5 percent. As at the same date, the book value of the fixed assets of all subsidiaries aggregated $1,549,183, of which those of Kemmerer Coal amounted to $957,172, or approximately 61.7 percent, and those of Service Corporation amounted to $482,572, or approximately 31.2 percent. In this connection, it is stated that to improve and extend its service to rural areas adjacent to its present service area, Service Corporation, in October 1955, undertook a construction program the cost of which is estimated at approximately $1,250,000, to be financed by the private sale of debt securities to institutional investors.

All of the stock of Lincoln is owned by Sea Bright Corporation ("Sea Bright") and Penn Forest Corporation ("Penn Forest"). All of the stocks of Sea Bright and Penn Forest are beneficially owned by not exceeding sixteen members of the Kemmerer family. Service Corporation is the only public utility company owned directly or indirectly by Lincoln, Sea Bright and Penn Forest.

Notice is further given that any interested person may, not later than July 16, 1956, at 5:30 p. m., e. d. s. t., request in writing that a hearing be held in respect of the above matter, stating the nature of his interest, the reasons for the request, the issues of fact or law which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date said application may be granted or the Commission may take such other action as it may deem appropriate under the circumstances.

By the Commission.

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

[F. R. Doc. 56-5189; Filed, June 29, 1956; 8:46 a. m.]

GENERAL SERVICES ADMINISTRATION

[Project 3-DC-01]

FEDERAL OFFICE BUILDINGS

PROSPECTUS FOR PROPOSED BUILDINGS IN SOUTHWEST REDEVELOPMENT AREA OF DISTRICT OF COLUMBIA

EDITORIAL NOTE: This prospectus of proposed Project Number 3-DC-01 is published pursuant to section 412 (f) of the Public Buildings Purchase Contract Act of 1954 as amended by Public Law 150, 84th Congress, which requires publication in the FEDERAL REGISTER, for a period of ten consecutive days from date of submission to the Committees on Public Works of the Senate and House of Representatives.

Project Number 3-DC-01 (Revised)

MARCH 14, 1956.

FORMAL PROSPECTUS FOR PROPOSED BUILDING UNDER TITLE I PUBLIC LAW 519, 83D CONGRESS, 2D SESSION

FEDERAL OFFICE BUILDING, WASHINGTON, D. C.

1. *Brief description of proposed building.* The project contemplates the erection of a group of three Federal Office Buildings on a site to be acquired by the Government facing on the proposed Tenth Street Mall in the southwest redevelopment area of Washington, D. C. Each building will be multistoried. An aggregate of approximately 643,000 square feet of net assignable space will be provided.

2. *Estimated maximum cost and financing.* a. Maximum cost of site and buildings, $25,250,000.

b. Proposed contract term, 30 years.

c. Maximum rate of interest on purchase contract, 4 percent.

3. *Certificates of need.* As the project is intended to provide relocation of numerous Federal agencies now in temporary buildings, no specific allocation of space can be made at this time. Upon completion of the facility, assignment and reassignment will be made in accordance with existing law. Therefore, requirement for Certificate of Need otherwise required by section 411 (e) of the Public Buildings Purchase Contract Act of 1954 was waived in Public Law 150, 84th Congress. Certification is hereby made as to the need for service and garage space.

4. *Non-availability of existing space.* Suitable space owned by the Government is not available; and suitable rental space is not available at a price commensurate with that to be afforded through the contract proposed.

5. *Estimated annual managerial, custodial, heat, and utility costs.* (Services to be supplied by Government), $675,000.

6. *Estimated annual tax liability, upkeep and maintenance.* a. Taxes, post construction (contract period), $321,625.

b. Upkeep and maintenance (to be provided by Government), $96,000.

7. *Current annual housing costs.* Rents and other housing costs currently paid by the Government for agencies to be housed in the building to be erected, $509,000 p. a.

Determination of need. It has been determined that (1) the needs for space for the permanent activities of the Federal Government in this particular area cannot be satisfied by utilization of any existing suitable property now owned by the Government, and (2) the best interests of the United States will be served by taking action hereunder.

Submitted at Washington, D. C., on June 1, 1956.

Approved:

FRANKLIN G. FLOETE,
Administrator of General Services.

8. *Statement of Director, Bureau of the Budget.* Reflected in letter (copy attached).

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

WASHINGTON 25, D. C.

JUNE 13, 1956.

Project 3-DC-01 (Revised 3-14-56).
3 Multi-storied Federal Office Buildings.
Southwest Redevelopment Area, Washington, D. C.

MY DEAR MR. FLOETE: Pursuant to section 411 (e) (8) of the Public Buildings Purchase Contract Act of 1954 (Public Law 519), the (Revised March 14, 1956) proposal for a group of three Federal Office Buildings, transmitted with your letter of June 1, 1956, has been examined and in my opinion "is necessary and in conformity with the policy of the President." This approval is given with the following understanding:

1. Revision reflects the application of more definite plans for integration of the facility with the proposed Tenth Street Mall developed subsequent to approval of the project last July. Effective integration requires construction of three building units in lieu of one, as originally proposed. Garage space of 134,250 square feet not contemplated in original project is provided. Number of employees, utilization of space and cost factors are relatively the same.

2. That the stated project cost of $25,250,000 (including $2,500,000 for a site to be acquired) is a maximum figure.

3. That the reported annual operating cost of existing Tempos 4, 5, and T; i. e., $1.00 per square foot, represents minimum maintenance in anticipation of demolition, and that temporary Government buildings actually cost more to maintain than the proposed new buildings.

4. That the proposed buildings will house approximately 10% of Federal employees presently housed in temporary buildings, and that the specific allocation of agencies in the proposed buildings is to be determined later by General Services Administration.

5. That every effort will be made to design and construct space conducive to maximum efficient utilization of both site and buildings and to take advantage of any revision of cost downward which may be found possible as the plans develop and negotiations are advanced.

6. That this approval supersedes Mr. Hughes' letter of July 22, 1955.

You appreciate, of course, that this project will receive a more detailed review as to cost and space utilization prior to the approval of the lease-purchase agreement.

Sincerely yours,

(Signed) PERCIVAL BRUNDAGE,
Director.

Hon. FRANKLIN G. FLOETE,
Administrator,
General Services Administration,
Washington 25, D. C.

[F. R. Doc. 56-4860; Filed, June 18, 1956; 11:38 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 27, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 32268: *Canned goods in official territory.* Filed by C. W. Boin, Agent, for interested rail carriers. Rates on canned or preserved foodstuffs, carloads between points in official (including Illinois) territory.

Grounds for relief: Short-line distance formula, truck competition and circuitous routes.

Tariffs: Agent Boin's tariff I. C. C. A-1105; Supplement 3 to Agent Raasch's I. C. C. 857.

FSA No. 32269: *Boxes, fibreboard, etc.—Gastonia, N. C.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on fibreboard, pulpboard or strawboard boxes, carloads from Gastonia, N. C., to St. Louis, Mo., Belleville, Cairo, East St. Louis, Ill., and other specified points in Illinois grouped therewith.

Grounds for relief: Circuitous routes in part west of the Mississippi River.

FSA No. 32270: *Coal—Illinois, Indiana, and Kentucky to Sibley, Iowa.* Filed by R. G. Raasch, Agent, for interested rail carriers. Rates on bituminous fine coal, carloads from Mines and stations in Illinois, Indiana and western Kentucky coal districts to Sibley, Iowa.

Grounds for relief: Market competition and circuitous routes.

Tariffs: Schedules listed in exhibit 1 of the application.

FSA No. 32271: *Wallboard—Central Territory to Kansas and Missouri.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on wallboard, building, wall or insulating boards, viz.: fibreboard or pulpboard or strawboard, or such boards and wood combined, carloads from points in Indiana, Michigan, New York, Ohio, Pennsylvania and West Virginia to specified points in Kansas and Missouri.

Grounds for relief: Circuitous routes.

Tariff: Supplement 137 to Agent Hinsch's I. C. C. 4238.

FSA No. 32272: *Export and import rates to southern and Gulf ports.* Filed by H. M. Engdahl, Agent, for interested rail carriers. Rates on various commodities moving on export class and commodity rates from specified points on the Pennsylvania Railroad Company in Illinois, Indiana, Ohio, Kentucky, and Missouri on export traffic, and to the same points on import traffic, when destined to or originating at southern and Gulf ports.

Grounds for relief: Circuitous routes through higher-rated intermediate origin or destination groups.

FSA No. 32273: *Logs—Norton, Va., to North Carolina.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on logs, carloads from Norton, Va., to High Point and Statesville, N. C.

Grounds for relief: Circuitous routes.

Tariff: Supplement 123 to Agent Spaninger's I. C. C. 1297.

FSA No. 32274: *Iron and steel articles—Steelton, Minn., to Illinois Territory.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on iron and steel articles, carloads from Steelton (Duluth), Minn., to specified points in Illinois territory.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 40 to Agent W. J. Prueter's I. C. C. A-3821.

FSA No. 32275: *Crushed stone, etc.—West Chelmsford, Mass., to Canastota, N. Y.* Filed by C. W. Boin, Agent, for interested rail carriers. Rates on crushed stone, grout and riprap, carloads from West Chelmsford, Mass., to Canastota, N. Y.

Grounds for relief: Circuitous routes.

Tariff: Supplement 56 to Boston and Maine Railroad tariff I. C. C. A-3230.

FSA No. 32276: *Animal and poultry feed—Augusta, Ga., to Georgia.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on animal or poultry feed, carloads from Augusta, Ga., to Athens and Atlanta, Ga.

Grounds for relief: Circuitous routes.

Tariff: Supplement 144 to Agent Spaninger's I. C. C. 1325.

FSA No. 32277: *Caustic soda—Louisiana points to Foley, Fla.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on liquid caustic soda, tankcar loads from Baton Rouge and North Baton Rouge, La., to Foley, Fla.

Grounds for relief: Circuitous routes.

Tariff: Supplement 9 to Agent Spaninger's I. C. C. 1526.

FSA No. 32278: *Superphosphate—Southern points to Madison, Minn.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on superphosphate, carloads from specified points in southern territory to Madison, Minn.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 16 to Agent Spaninger's I. C. C. 1522.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 56-5201; Filed, June 29, 1956; 8:48 a. m.]