

# FEDERAL REGISTER

THE NATIONAL ARCHIVES  
LITTERA  
SCRIPTA  
MANET  
OF THE UNITED STATES  
1934

VOLUME 26 NUMBER 14

Washington, Tuesday, January 24, 1961

## Contents

### THE PRESIDENT

#### Executive Order

Food distribution to needy families; provision for an expanded program..... 639

#### Proclamation

Chesapeake and Ohio Canal National Monument, Maryland; establishment..... 639

### EXECUTIVE AGENCIES

#### Agricultural Marketing Service

PROPOSED RULE MAKING:  
Milk in certain marketing areas; agreements and orders:  
Northeastern Wisconsin; extension of time for filing comments to recommended decision..... 679  
St. Louis, Mo.; decision on proposed amendments..... 663  
Worcester, Mass.; decision on proposed amendments..... 677

#### Agriculture Department

See Agricultural Marketing Service; Commodity Stabilization Service; Farmers Home Administration.

#### Atomic Energy Commission

NOTICES:  
Foreign patents; contract policy amendment (2 documents)..... 693

#### Civil Aeronautics Board

NOTICES:  
Hearings, etc.:  
Argonaut Airways Corp..... 694  
Martinsburg, W. Va., service..... 694  
Tasman Empire Airways, Ltd..... 694

#### Civil and Defense Mobilization Office

RULES AND REGULATIONS:  
Assignment of certain civil and defense mobilization functions to heads of agencies:  
Agriculture Department..... 651

Commerce Department..... 653  
Federal Aviation Agency..... 655  
Health, Education, and Welfare Department (2 documents)..... 656, 657  
Housing and Home Finance Agency..... 658  
Interior Department..... 659  
Labor Secretary..... 660  
Post Office Department..... 661

#### Civil Service Commission

RULES AND REGULATIONS:  
Annual and sick leave; home leave..... 640  
Exceptions from certain provisions, and stipends; psychodrama interns..... 640  
Exceptions from competitive service:  
Defense Department (2 documents)..... 640  
State Department..... 640

#### Commerce Department

See also Foreign Commerce Bureau.  
NOTICES:  
Bluestone, Max Larry; statement of changes in financial interests..... 697

#### Commodity Stabilization Service

NOTICES:  
Areas of venue for marketing quota review committee panels; establishment..... 689  
RULES AND REGULATIONS:  
Domestic sugar beet producing area prevented acreage credit, 1959 and subsequent crops; correction..... 642

#### Farmers Home Administration

RULES AND REGULATIONS:  
Alaska; average value of farms..... 641

#### Federal Aviation Agency

RULES AND REGULATIONS:  
Control area extension; designation..... 644  
Federal airways and associated control areas:  
Designation..... 642  
Revocation..... 642

Federal airways, associated control areas and reporting points; revocations (2 documents)..... 642, 643  
Federal airways and domestic VOR reporting points; modification..... 643

#### Federal Communications Commission

NOTICES:  
Hearings, etc.:  
Brennan Broadcasting Co..... 694  
Capitol Broadcasting Corp., Inc. (WKXL) et al..... 694  
Deters, Arthur A., and College Radio..... 694  
General Telephone Company of California..... 694  
Hopkinsville Broadcasting Co., Inc. (WHOP)..... 695  
R. O'Brien & Co..... 695

PROPOSED RULE MAKING:  
Table of assignments, television broadcast stations; Superior, Nebr..... 683

#### Federal Power Commission

NOTICES:  
Interior Department, Southwestern Power Administration; request for approval of rates and charges..... 696  
Hearings, etc.:  
Natural Gas Pipeline Company of America..... 695  
Transwestern Pipeline Co..... 696

#### Fish and Wildlife Service

RULES AND REGULATIONS:  
Stillwater National Wildlife Refuge, Nevada; sport fishing..... 662

#### Food and Drug Administration

PROPOSED RULE MAKING:  
Color additives; proposed definitions and procedural and interpretative regulations..... 679  
RULES AND REGULATIONS:  
Food additive in animal feed and food for human consumption..... 644  
(Continued on next page)



**Foreign Commerce Bureau****NOTICES:**

Rose, Max; and M. Rose Mandels-  
gesellschaft M.B.H.; order de-  
nying export privileges----- 697

**Health, Education, and Welfare  
Department**

See Food and Drug Administra-  
tion.

**Immigration and Naturalization  
Service****RULES AND REGULATIONS:**

Nonimmigrant classes; direct  
transits----- 641

**Interior Department**

See Fish and Wildlife Service;  
Land Management Bureau;  
Mines Bureau; National Park  
Service.

**Interstate Commerce Commission****PROPOSED RULE MAKING:**

Uniform system of accounts for  
railroad companies; rearrange-  
ment and revision in general  
accounting instructions and re-  
lated matters----- 688

**Justice Department**

See Immigration and Naturaliza-  
tion Service.

**Land Management Bureau****RULES AND REGULATIONS:**

Alaska; renaming of Kuskowim  
Wildlife Range----- 662

**Mines Bureau****RULES AND REGULATIONS:**

Mobile diesel-powered transporta-  
tion equipment for gassy  
noncoal mines and tunnels; pro-  
cedures for testing for permis-  
sibility----- 645

**National Park Service****NOTICES:**

Virgin Islands National Historic  
Site; change of name to Chris-  
tiansted National Historic Site. 689

**State Department****RULES AND REGULATIONS:**

Visas; nonimmigrant documen-  
tary waivers----- 645

## Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

**3 CFR****EXECUTIVE ORDERS:**

10914----- 639

**PROCLAMATIONS:**

3391----- 639

**5 CFR**

6 (3 documents)----- 640

27----- 640

30----- 640

**6 CFR**

331----- 641

**7 CFR**

849----- 642

**PROPOSED RULES:**

903----- 663

999----- 677

1016----- 679

**8 CFR**

214----- 641

**14 CFR**

600 (5 documents)----- 642, 643

601 (6 documents)----- 642-644

**21 CFR**

121----- 644

**PROPOSED RULES:**

8----- 679

**22 CFR**

41----- 645

**30 CFR**

36----- 645

**32A CFR****OCDM (Ch. I):**

EPO-1—EPO-9----- 651, 653, 655-661

**43 CFR****PUBLIC LAND ORDERS:**

2213 (see PLO 2253)----- 662

2253----- 662

**47 CFR****PROPOSED RULES:**

3----- 688

**49 CFR****PROPOSED RULES:**

10----- 688

**50 CFR**

33----- 662



Telephone

WOrth 3-3261

prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The **FEDERAL REGISTER** will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the **CODE OF FEDERAL REGULATIONS**, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The **CODE OF FEDERAL REGULATIONS** is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the **FEDERAL REGISTER**, or the **CODE OF FEDERAL REGULATIONS**.



# Presidential Documents

## Title 3—THE PRESIDENT

### Proclamation 3391

#### ESTABLISHING THE CHESAPEAKE AND OHIO CANAL NATIONAL MONUMENT, MARYLAND

By the President of the United States  
of America  
A Proclamation

WHEREAS by deed of September 23, 1938, the United States acquired from the Receivers of the Chesapeake and Ohio Canal Company certain lands, together with all appurtenances thereunto belonging, known as the Chesapeake and Ohio Canal; and

WHEREAS since September 23, 1938, such lands have been administered and protected by the Department of the Interior through the National Park Service; and

WHEREAS, by section 2 of the act of Congress approved June 8, 1906 (34 Stat. 225), the President of the United States is authorized "in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected"; and

WHEREAS the Chesapeake and Ohio Canal is of historic and scientific interest, and historic structures and objects of scientific interest are situated upon the lands thereof:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, by virtue of the authority vested in me by section 2 of the act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do proclaim that, subject to valid existing rights, there is hereby reserved and set apart as a national monument, to be known as the Chesapeake and Ohio Canal National Monument, that portion of the property now owned by the United States and acquired by it under the said deed of September 23, 1938, which extends from Cumberland, Maryland, to a location 100 feet downstream from the first culvert above the Seneca aqueduct, the monu-

ment hereby established containing approximately 4,800 acres.

The said deed of September 23, 1938, is recorded in the land records of the County of Allegany, Maryland, in Book R.J. No. 181 at Folio 603, of the County of Washington, Maryland, in Book No. 207 at Folio 575, of the County of Frederick, Maryland, in Book No. 414 at Folio 245 fc., and of the County of Montgomery, Maryland, in Book No. 638 at Folio 76. Detailed maps of the Chesapeake and Ohio Canal property, consisting of 15 rolls prepared by B. F. Mackall, are on file with the Director, National Park Service, Washington, D.C., and the Superintendent of the Chesapeake and Ohio Canal Project in Hagerstown, Maryland.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this monument and not to locate or settle upon any of the lands reserved by this proclamation.

The Chesapeake and Ohio Canal National Monument shall be supervised, managed, and controlled in accordance with the act of Congress entitled "An Act To Establish a National Park Service, and for Other Purposes," approved August 25, 1916 (39 Stat. 535), and acts supplementary thereto and amendatory thereof, including the act of September 22, 1950 (64 Stat. 905), and the act of August 1, 1953 (67 Stat. 359).

Nothing in this proclamation is intended to prejudice the use of the Chesapeake and Ohio Canal National Monument for such works as the Congress may hereafter authorize for municipal and domestic water supply, navigation, flood control, drainage, recreation, or other beneficial purposes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this eighteenth day of January in the year of our Lord nineteen hundred and [SEAL] sixty-one and of the Independence of the United States of America the one hundred and eighty-fifth.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,  
Secretary of State.

[F.R. Doc. 61-696; Filed, Jan. 23, 1961; 10:36 a.m.]

### Executive Order 10914

#### PROVIDING FOR AN EXPANDED PROGRAM OF FOOD DISTRIBUTION TO NEEDY FAMILIES

Whereas one of the most important and urgent problems confronting this Nation today is the development of a positive food and nutrition program for all Americans;

Whereas I have received the report of the Task Force on Area Redevelopment under the chairmanship of Senator Douglas, in which special emphasis is placed upon the need for additional food to supplement the diets of needy persons in areas of chronic unemployment;

Whereas I am also advised that there are now almost 7 million persons receiving some form of public assistance, that 4.5 million persons are reported as being unemployed and that a substantial number of needy persons are not recipients in the present food distribution program;

Whereas the variety of foods currently being made available is limited and its nutritional content inadequate; and

Whereas despite an abundance of food, farm income has been in a period of decline, and a strengthening of farm prices is desirable.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

The Secretary of Agriculture shall take immediate steps to expand and improve the program of food distribution throughout the United States, utilizing funds and existing statutory authority available to him, including section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612), so as to make available for distribution, through appropriate State and local agencies, to all needy families a greater variety and quantity of food out of our agricultural abundance.

JOHN F. KENNEDY

THE WHITE HOUSE,  
January 21, 1961.

[F.R. Doc. 61-711; Filed, Jan. 23, 1961; 11:08 a.m.]



# Rules and Regulations

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

##### Department of State

Effective upon publication in the FEDERAL REGISTER, paragraph (d) (7) of § 6.302 is amended and paragraphs (d) (10) and (1) (6) are added as set out below.

##### § 6.302 Department of State.

(d) *Office of the Assistant Secretary for Public Affairs.* \* \* \*

(7) Director of the Office of News.

(10) One Deputy Assistant Secretary for Mutual Security Information.

(1) *Bureau of Inter-American Affairs.* \* \* \*

(6) One Deputy Assistant Secretary for Inter-American Economic Affairs.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,  
*Executive Assistant to  
the Commissioners.*

[F.R. Doc. 61-582; Filed, Jan. 23, 1961;  
8:49 a.m.]

#### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

##### Department of Defense

Effective upon publication in the FEDERAL REGISTER, subparagraph (29) is added to § 6.304(a) as set out below.

##### § 6.304 Department of Defense.

(a) *Office of the Secretary.* \* \* \*

(29) One Personal Secretary to the Deputy Secretary of Defense.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,  
*Executive Assistant to  
the Commissioners.*

[F.R. Doc. 61-581; Filed, Jan. 23, 1961;  
8:49 a.m.]

#### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

##### Department of Defense

Effective upon publication in the FEDERAL REGISTER, subparagraph (30) is added to § 6.304(a) as set out below.

##### § 6.304 Department of Defense.

(a) *Office of the Secretary* \* \* \*

(30) One Private Secretary to the Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,  
*Executive Assistant to  
the Commissioners.*

[F.R. Doc. 61-672; Filed, Jan. 23, 1961;  
8:53 a.m.]

#### PART 27—EXCLUSION FROM PROVISIONS OF FEDERAL EMPLOYEES PAY ACT OF 1945, AS AMENDED, AND CLASSIFICATION ACT OF 1949, AS AMENDED, AND ESTABLISHMENT OF STIPENDS FOR POSITIONS IN GOVERNMENT HOSPITALS FILLED BY STUDENT OR RESIDENT TRAINEES

##### Psychodrama Interns

1. Effective January 15, 1961, § 27.1 is amended by the addition of the following item:

§ 27.1 Exclusion from provisions of the Federal Employees Pay Act and Classification Act.

Psychodrama interns, Department of Health, Education, and Welfare, first and second years approved postgraduate training.

2. Effective January 15, 1961, § 27.2 is amended by the addition of the following item:

§ 27.2 Maximum stipends prescribed.

Psychodrama interns, Department of Health, Education, and Welfare:

First year approved postgraduate training \$3,200

Second year approved postgraduate training 3,400

(61 Stat. 727; 5 U.S.C. 1051-1058)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,  
*Executive Assistant to  
the Commissioners.*

[F.R. Doc. 61-579; Filed, Jan. 23, 1961;  
8:49 a.m.]

#### PART 30—ANNUAL AND SICK LEAVE REGULATIONS

##### Subpart F—Home Leave

The following regulations supersede the present Subpart F of Part 30.

##### Subpart F—Home Leave

Sec.  
30.601 Definitions.  
30.602 Coverage.

Sec.  
30.603 Computation of creditable service.  
30.604 Earning rates.  
30.605 Computation of home leave.  
30.606 Grant of home leave.  
30.607 Transfer and recredit of home leave.  
30.608 Saving provisions.  
30.609 Effective date.

AUTHORITY: §§ 30.601 to 30.609 issued under sec. 206, 65 Stat. 681; 5 U.S.C. 2065.

##### § 30.601 Definitions.

As used in this subpart, the term:

(a) "Home leave" means leave authorized by paragraph 203(f) of the Act and earned by service abroad for use in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(b) "Month" means a period which runs from a given day in one month through the day preceding the numerically corresponding day in the next month.

(c) "Service abroad" means service on and after September 6, 1960, as an employee of any agency of the Federal Government at a post of duty outside the United States and outside the employee's place of residence if his residence is the Commonwealth of Puerto Rico or any one of the possessions of the United States.

##### § 30.602 Coverage.

An employee who meets the requirements of section 203(d) of the Act for the accumulation of a maximum of 45 days of annual leave shall earn and may be granted home leave in accordance with paragraph 203(f) of the Act and the regulations in this subpart.

##### § 30.603 Computation of creditable service.

Creditable service begins with the date of the employee's arrival at a post of duty outside the United States, or on the date of his entrance on duty if recruited abroad, and ends on the date of the employee's departure from the post for separation or for assignment in the United States, or upon his separation from duty in case of separation abroad. Full credit shall be given for the day of arrival and the day of departure. Creditable service includes: (1) Absence in a nonpay status up to a maximum of two workweeks; (2) authorized leave with pay; (3) time spent in the Armed Forces of the United States which interrupts otherwise creditable service; and (4) any period of detail.

##### § 30.604 Earning rates.

(a) For each 12 months of service abroad, home leave shall accrue as follows provided the conditions of eligibility in this subpart are met:

(1) An employee who accepts as a condition of initial or continued employment with his agency an obligation to accept assignments anywhere in the world as the needs of the agency dictate shall earn 15 days' home leave.



(2) An employee who is serving with a U.S. Mission to a Public International Organization shall earn 15 days' home leave.

(3) An employee who is serving at a post for which payment of a foreign or territorial (but not a tropical) differential of 20 percent or more is authorized by law or regulation shall earn 15 days' home leave.

(4) An employee not included in subparagraph (1), (2), or (3) who is serving at a post for which payment of a foreign or territorial (but not a tropical) differential of at least 10 percent but less than 20 percent is authorized by law or regulation shall earn 10 days' home leave.

(5) An employee not included in subparagraph (1), (2), (3), or (4) shall earn five days' home leave.

(b) Home leave shall be credited to an employee's leave account, as earned, in multiples of one day.

#### § 30.605 Computation of home leave.

(a) An employee shall earn home leave for each month of creditable service under the rates fixed by paragraph (a) of § 30.604 in the amounts set forth in the following table:

HOME LEAVE-EARNING TABLE

| Months of service: | Accrual rate<br>(days for each<br>12 months) |    |   |
|--------------------|----------------------------------------------|----|---|
|                    | 15                                           | 10 | 5 |
|                    | (Days earned)                                |    |   |
| 1-----             | 1                                            | 0  | 0 |
| 2-----             | 2                                            | 1  | 0 |
| 3-----             | 3                                            | 2  | 1 |
| 4-----             | 5                                            | 3  | 1 |
| 5-----             | 6                                            | 4  | 2 |
| 6-----             | 7                                            | 5  | 2 |
| 7-----             | 8                                            | 5  | 2 |
| 8-----             | 10                                           | 6  | 3 |
| 9-----             | 11                                           | 7  | 3 |
| 10-----            | 12                                           | 8  | 4 |
| 11-----            | 13                                           | 9  | 4 |
| 12-----            | 15                                           | 10 | 5 |

(b) When an employee moves between different leave-earning rates before completion of a month of creditable service or when a change in the differential during the month results in a different leave earning rate, he shall be credited with the amount of accrual for the month at the accrual rate to which he was entitled prior to the change in his accrual rates.

#### § 30.606 Grant of home leave.

(a) *Entitlement.* Home leave may not be granted until the completion of 24 months of continuous creditable service abroad (hereinafter called the "basic service period"). A basic service period is terminated by (1) a break in service of one or more workdays, or (2) an assignment (other than a detail) to a position whereby the employee is no longer subject to section 203(f) of the Act.

(b) *Agency authority.* The grant of home leave shall be at the discretion of the agency, and may be granted for use only in the United States, the Commonwealth of Puerto Rico, or possessions of the United States. A combination of home leave and other leaves of absence may be granted in accordance with established agency policy.

(c) *Limitation.* Home leave may be granted to an employee (1) during a period of service abroad, or (2) within

a reasonable time after his return from service abroad when it is contemplated that he will return to service abroad immediately or upon completion of an assignment in the United States. Home leave not granted at such time may not be granted until the employee has completed a further substantial period of service abroad; the further period of service abroad required by this paragraph shall be not less than the tour of duty prescribed for the employee's post of assignment, except where an agency determines that an earlier grant of such home leave is warranted in individual cases.

(d) *Charging of home leave.* The minimum charge for home leave shall be one day.

(e) *Refund for home leave.* An employee shall be indebted for the home leave used by him when he fails to return to service abroad (1) after the period of leave, or (2) after the completion of an assignment in the United States. However, a refund for such indebtedness shall not be required (1) when the employee has completed not less than six months' service in an assignment in the United States following the period of leave, or (2) when the agency determines that the employee's failure to return was due to compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental health or circumstances over which the employee has no control, or (3) when the agency which granted the home leave determines that it is in the public interest not to return the employee to his overseas assignment.

#### § 30.607 Transfer and recredit of home leave.

(a) An employee's accrued home leave shall be transferred or recredited to his leave account when he moves between agencies or is reemployed in the Federal service without a break in service in excess of 90 days.

(b) Home leave shall be recredited under this section only to employees transferred or reemployed on or after the effective date of this subpart.

#### § 30.608 Saving provisions.

(a) Home leave to the credit of an employee on the day preceding the effective date of this subpart shall be credited to the employee's home leave account under these regulations and shall be available for use in accordance with the Act and this subpart.

(b) Service which was creditable for the earning of home leave under appropriate statutory provisions in effect immediately prior to the effective date of this subpart shall be counted as creditable service under the Act and this subpart.

#### § 30.609 Effective date.

The effective date of this subpart is the first day of the first pay period following September 6, 1960.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,  
Executive Assistant to  
the Commissioners.

[F.R. Doc. 61-580; Filed, Jan. 23, 1961; 8:49 a.m.]

## Title 6—AGRICULTURAL CREDIT

### Chapter III—Farmers Home Administration, Department of Agriculture

#### SUBCHAPTER B—FARM OWNERSHIP LOANS

[FHA Instruction 428.1]

#### PART 331—POLICIES AND AUTHORITIES

##### Average Values of Farms: Alaska

On January 11, 1961, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, the average value of efficient family-type farm-management units in the subdivision designated as Fairbanks was determined to be as herein set forth. The average value heretofore established for the Fairbanks subdivision which appears in the tabulations of average values under 6 CFR 331.17 is superseded by the average value set forth below for said subdivision (county).

| ALASKA          | Average Value |
|-----------------|---------------|
| County:         |               |
| Anchorage ----- | \$50,000      |
| Fairbanks ----- | 50,000        |
| Homer -----     | 35,000        |
| Palmer -----    | 50,000        |

(Sec. 41, 50 Stat. 528, as amended; 7 U.S.C. 1015; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

Dated: January 17, 1961.

H. C. SMITH,  
Acting Administrator,  
Farmers Home Administration.

[F.R. Doc. 61-561; Filed, Jan. 23, 1961; 8:48 a.m.]

## Title 8—ALIENS AND NATIONALITY

### Chapter I—Immigration and Naturalization Service, Department of Justice

#### PART 214—NONIMMIGRANT CLASSES

##### Direct Transits

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

The first sentence of subparagraph (1) *Without visas* of paragraph (c) *Transits* of 214.2 *Special requirements for admission, extension, and maintenance of status* is amended by adding the word "Cuba," after the word "Albania".

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is contrary to the public interest in this instance because the amendment prescribed



by the order affects the internal security of the United States.

Dated: January 18, 1961.

J. M. SWING,  
Commissioner of  
Immigration and Naturalization.

[F.R. Doc. 61-576; Filed, Jan. 23, 1961;  
8:48 a.m.]

## Title 7—AGRICULTURE

### Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

#### SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[Sugar Determination 849.2 Rev.]

#### PART 849—DOMESTIC BEET SUGAR PRODUCING AREA PREVENTED ACREAGE CREDIT; 1959 AND SUBSEQUENT CROPS

##### Correction

In F.R. Doc. 61-278, appearing at page 248 of the issue for Friday, Jan. 13, 1961, the year "1960" in the last paragraph should read "1961".

## Title 14—AERONAUTICS AND SPACE

### Chapter III—Federal Aviation Agency

#### SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60-NY-52]

#### PART 600—DESIGNATION OF FEDERAL AIRWAYS

#### PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

#### Revocation of Federal Airway, Associated Control Areas and Reporting Points

On June 28, 1960, a notice of proposed rule making was published in the *FEDERAL REGISTER* (25 F.R. 5940) stating that the Federal Aviation Agency (FAA) proposed to revoke the segment of Blue Federal airway No. 47 from the Morven Intersection (intersection of the north course of the Blackstone, Va., radio range and the 266° True bearing of the Richmond, Va., radio range) to the Philipsburg, Pa., radio range.

The Air Transport Association of America objected to the revocation of Blue 47 between the Philipsburg radio range and the Flintstone, Md., intersection prior to the designation of a replacement VOR airway to serve this route. The FAA has designated VOR Federal airway No. 501 to serve this purpose in Airspace Docket No. 60-NY-99, which is effective concurrent with this action. No other adverse com-

ments were received regarding the proposed amendments.

Subsequent to the publication of the notice, additional peak-day traffic figures for August 6, 1959, revealed only four aircraft movements on the remaining segment of Blue 47, which lies between the Morven Intersection and the Brodnax Intersection (intersection of the northeast course of the Raleigh, N.C., radio range and the south course of the Blackstone radio range). On the basis of this survey, the retention of the remaining portion of this airway is unjustified as an assignment of airspace and the revocation thereof will be in the public interest. Such action is taken herein. These actions, in effect, will revoke Blue 47 in its entirety, its associated control areas and reporting points.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, Parts 600 and 601 (14 CFR Parts 600, 601) are amended as follows:

1. Section 600.647 *Blue Federal airway No. 47 (Blackstone, Va., to Philipsburg, Pa.)* is revoked.
2. Section 601.647 *Blue Federal airway No. 47 control areas (Blackstone, Va., to Philipsburg, Pa.)* is revoked.
3. Section 601.4647 *Blue Federal airway No. 47 (Blackstone, Va., to Philipsburg, Pa.)* is revoked.

These amendments shall become effective 0001 e.s.t. March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 16, 1961.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

[F.R. Doc. 61-544; Filed, Jan. 23, 1961;  
8:45 a.m.]

[Airspace Docket No. 60-NY-86]

#### PART 600—DESIGNATION OF FEDERAL AIRWAYS

#### PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

#### Revocation of Segment of Federal Airway and Associated Control Areas

On July 27, 1960, a notice of proposed rule making was published in the *FEDERAL REGISTER* (25 F.R. 7106) stating that the Federal Aviation Agency proposed to revoke the segment of VOR Federal airway No. 42 between Johnstown, Pa., and Washington, D.C., and its associated control areas.

The Air Transport Association of America objected to the revocation of

this segment of Victor 42 on the basis that the proposed action was inconsistent with the provisions of Airway Planning Standard No. 2, as it relates to air route traffic control service for scheduled air carriers. However, this objection was subsequently withdrawn with the programming of VOR Federal airway No. 501 in Airspace Docket No. 60-NY-99, which is effective concurrent with this action. No other adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. Section 600.6042 (14 CFR 600.6042) is amended to read:

§ 600.6042 VOR Federal airway No. 42 (Flint, Mich., to Johnstown, Pa.).

From the Flint, Mich., VOR via the Windsor, Ontario, Canada, VOR; Cleveland, Ohio, VOR; Akron, Ohio, VOR; Imperial, Pa., VOR; INT of the Imperial VOR 074° True and the Ellwood City, Pa., VOR 122° True radials; to the Johnstown, Pa., VOR, excluding the portion that lies outside the United States.

2. Section 601.6042 (14 CFR 601.6042) is amended to read:

§ 601.6042 VOR Federal airway No. 42 control areas (Flint, Mich., to Johnstown, Pa.).

All of VOR Federal airway No. 42.

These amendments shall become effective 0001 e.s.t., March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 16, 1961.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

[F.R. Doc. 61-545; Filed, Jan. 23, 1961;  
8:45 a.m.]

[Airspace Docket No. 60-NY-99]

#### PART 600—DESIGNATION OF FEDERAL AIRWAYS

#### PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

#### Designation of Federal Airway and Associated Control Areas

On October 1, 1960, a notice of proposed rule making was published in the *FEDERAL REGISTER* (25 F.R. 9415) stating that the Federal Aviation Agency proposed to designate VOR Federal airway No. 501 from Martinsburg, W. Va., to Wellsville, N.Y.

No adverse comments were received regarding the proposed amendments.



The Air Transport Association of America concurred in this action provided the Altoona, Pa., control area extension (Airspace Docket No. 60-WA-236) is designated concurrently with this action.

The designation of the Altoona control area extension will be concurrent with the designation of Victor 501.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. In Part 600 (14 CFR Part 600) the following section is added:

**§ 600.6501 VOR Federal airway No. 501**  
(Martinsburg, W. Va., to Wellsville, N.Y.).

From the Martinsburg, W. Va., VORTAC via the St. Thomas, Pa., VOR; Philipsburg, Pa., VORTAC; Slate Run, Pa., VOR; to the Wellsville, N.Y., VOR.

2. In Part 601 (14 CFR Part 601) the following section is added:

**§ 601.6501 VOR Federal airway No. 501**  
control areas (Martinsburg, W. Va., to Wellsville, N.Y.).

All of VOR Federal airway No. 501.

These amendments shall become effective 0001 e.s.t., March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 16, 1961.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

[F.R. Doc. 61-546; Filed, Jan. 23, 1961;  
8:45 a.m.]

[Airspace Docket No. 60-NY-105]

## PART 600—DESIGNATION OF FEDERAL AIRWAYS

### PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSI- TIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

#### Revocation of Segment of Federal Airway, Associated Control Areas and Reporting Points

On October 8, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9686) stating that the Federal Aviation Agency proposed to revoke the segment of Green Federal airway No. 4 between Zanesville, Ohio, and Philadelphia, Pa., its associated control areas and reporting points.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. In § 600.14 (14 CFR 600.14; 25 F.R. 2011, 8741) the following changes are made:

(a) In the caption "(Los Angeles, Calif., to Amarillo, Tex., and Wichita, Kans., to Philadelphia, Pa.)" is deleted and "(Los Angeles, Calif., to Amarillo, Tex., and Wichita, Kans., to Zanesville, Ohio)" is substituted therefor.

(b) In the text "Zanesville, Ohio, nondirectional radio beacon; Wheeling, W. Va., nondirectional radio beacon; Pittsburgh, Pa., radio range station; New Alexandria, Pa., nondirectional radio beacon; Altoona, Pa., radio range station; Harrisburg, Pa., radio range station; the intersection of the east course of the Harrisburg, Pa., radio range and the southwest course of the Philadelphia, Pa., radio range; Philadelphia, Pa., radio range station to the Philadelphia International Airport, Philadelphia, Pa." is deleted and "to the Zanesville, Ohio, RBN." is substituted therefor.

2. In the caption of § 601.14 (14 CFR 601.14; 25 F.R. 2011) "(Los Angeles, Calif., to Amarillo, Tex., and Wichita, Kans., to Philadelphia, Pa.)" is deleted and "(Los Angeles, Calif., to Amarillo, Tex., and Wichita, Kans., to Zanesville, Ohio)" is substituted therefor.

3. In § 601.4014 (14 CFR 601.4014; 25 F.R. 2011, 7620) the following changes are made:

(a) In the caption "(Los Angeles, Calif., to Amarillo, Tex., and Wichita, Kans., to Philadelphia, Pa.)" is deleted and "(Los Angeles, Calif., to Amarillo, Tex., and Wichita, Kans., to Zanesville, Ohio)" is substituted therefor.

(b) In the text "Columbus, Ohio, radio range station; Zanesville, Ohio, nondirectional radio beacon; Wheeling, W. Va., nondirectional radio beacon; Pittsburgh, Pa., radio range station; New Alexandria, Pa., nondirectional radio beacon; Altoona, Pa., radio range station; Harrisburg, Pa., radio range station; Philadelphia, Pa., radio range station." is deleted and "Columbus, Ohio, RR." is substituted therefor.

These amendments shall become effective 0001 e.s.t. March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 16, 1961.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

F.R. Doc. 61-547; Filed, Jan. 23, 1961;  
8:46 a.m.]

[Airspace Docket No. 60-NY-162]

## PART 600—DESIGNATION OF FEDERAL AIRWAYS

### PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSI- TIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

#### Modification of Federal Airways and Domestic VOR Reporting Points

The purpose of these amendments to §§ 600.6188, 600.6164, 600.6232, 600.6039, 601.7001, 601.6164, and 601.6188 of the regulations of the Administrator is to change the name of the Stroudsburg, Pa., VOR to the Tannersville, Pa., VOR-TAC.

This name change will require a modification in the descriptions of VOR Federal airways No. 188, 164, 232, and 39 and in the section pertaining to domestic VOR reporting points. Such action is taken herein.

Since the changes effected by these amendments impose no additional burden on any person, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following actions are taken:

1. In § 600.6188 (25 F.R. 634, 860, 1940) the following changes are made:

(a) In the caption "Stroudsburg, Pa." is deleted and "Tannersville, Pa." is substituted therefor.

(b) In the text "Stroudsburg, Pa., VOR" is deleted and "Tannersville, Pa., VORTAC" is substituted therefor.

2. In § 600.6164 (25 F.R. 634, 1940) the following changes are made:

(a) In the caption "Stroudsburg, Pa." is deleted and "Tannersville, Pa." is substituted therefor.

(b) In the text "Stroudsburg, Pa., VOR" is deleted and "Tannersville, Pa., VORTAC" is substituted therefor wherever it appears.

3. In the text of § 600.6232 (14 CFR 600.6232, 25 F.R. 3154) "Stroudsburg, Pa., VOR to the INT of the Stroudsburg VOR 114°" is deleted and "Tannersville, Pa., VORTAC to the INT of the Tannersville VORTAC 114° True" is substituted therefor.

4. In the text of § 600.6039 (14 CFR 600.6039, 25 F.R. 1664, 2662, 10342) "Stroudsburg, Pa., VOR;" is deleted and "Tannersville, Pa., VORTAC;" is substituted therefor.

5. In the text of § 601.7001 (14 CFR 601.7001) "Stroudsburg, Pa., omnirange station." is deleted and "Tannersville, Pa., VORTAC." is added.



6. In the caption of § 601.6164 (25 F.R. 634, 1940) "Stroudsburg, Pa." is deleted and "Tannersville, Pa." is substituted therefor.

7. In the caption of § 601.6188 (14 CFR 601.6188, 25 F.R. 634, 860, 1940) "Stroudsburg, Pa." is deleted and "Tannersville, Pa." is substituted therefor.

These amendments shall become effective 0001 e.s.t. March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 17, 1961.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

[F.R. Doc. 61-548; Filed, Jan. 23, 1961;  
8:46 a.m.]

[Airspace Docket No. 60-WA-236]

## PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

### Designation of Control Area Extension

On October 20, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 10034) stating that the Federal Aviation Agency proposed to designate a control area extension at Altoona, Pa.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, Part 601 (14 Part CFR 601) is amended by adding the following section:

§ 601.1302 Control area extension (Altoona, Pa.).

The airspace N of the Altoona VOR bounded on the E by a line 5 miles W of and parallel to the 358° True radial of the St. Thomas, Pa., VOR, on the S by VOR Federal airway No. 12, on the NW by VOR Federal airway No. 35 and on the N by VOR Federal airway No. 276.

This amendment shall become effective 0001 e.s.t. March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 16, 1961.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

[F.R. Doc. 60-543; Filed, Jan. 23, 1961;  
8:45 a.m.]

## Title 21—FOOD AND DRUGS

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

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

#### PART 121—FOOD ADDITIVES

#### Subpart C—Food Additives Permitted in Animal Feed or Animal Feed Supplements

#### Subpart D—Food Additives Permitted in Food for Human Consumption

#### ETHOXYQUIN IN ANIMAL FEED AND IN FOOD FOR HUMAN CONSUMPTION

I. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Monsanto Chemical Company, 800 North Lindbergh Boulevard, St. Louis 66, Missouri, and other relevant material, has concluded that the following amendments to the food additive regulations should issue in conformance with section 409 of the Federal Food, Drug, and Cosmetic Act, with respect to the food additive ethoxyquin as a preservative in animal feed. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625): *It is ordered*, That § 121.202 be amended to provide for the use of ethoxyquin in all animal feeds. As amended, this section reads as follows:

#### § 121.202 Ethoxyquin in animal feeds.

Ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline) may be safely used in animal feeds, when incorporated therein in accordance with the following prescribed conditions:

(a) It is intended for use only: (1) As a chemical preservative for retarding oxidation of carotene, xanthophylls, and vitamins A and E in animal feed and fish food and, (2) as an aid in preventing the development of organic peroxides in canned pet food.

(b) The maximum quantity of the additive permitted to be used and to remain in or on the treated article shall not exceed 150 parts per million (0.015 percent).

(c) To assure safe use of the additive, the label and labeling of the food additive container and that of any intermediate premixes prepared therefrom shall contain, in addition to other information required by the act:

(1) The name of the additive, ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline).

(2) A statement of the concentration or strength contained therein.

(3) Adequate use directions to provide for a finished article with the proper concentration of the additive as provided in paragraph (b) of this section, whether

or not intermediate premixes are to be used.

II. Based upon an evaluation of the data before him, and proceeding under the authority of the Food, Drug, and Cosmetic Act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), the Commissioner of Food and Drugs has further concluded that a tolerance limitation is required in order to assure that the use of the food additive ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline) will not cause the edible tissues of animals to be unsafe when these animals have been fed on feed treated with the additive in accordance with § 121.202. Therefore, the following tolerances are established and Subpart D is amended by changing § 121.1001 to read as follows:

#### § 121.1001 Tolerances for residues of ethoxyquin.

In order to provide for the safe use of the additive in feed prepared in accordance with §§ 121.201 and 121.202, tolerances are established for residues of ethoxyquin in or on edible products of animals as follows:

5.0 parts per million (0.0005 percent) in or on the uncooked fat of meat from animals except poultry.

3.0 parts per million (0.0003 percent) in or on the uncooked liver and fat of poultry.

0.5 part per million (0.00005 percent) in or on the uncooked muscle meat of animals.

0.5 part per million (0.00005 percent) in poultry eggs.

Zero in milk.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

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

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

Dated: January 16, 1961.

[SEAL] GEO. P. LARRICK,  
Commissioner of Food and Drugs.

[F.R. Doc. 61-557; Filed, Jan. 23, 1961;  
8:47 a.m.]



**Title 22—FOREIGN RELATIONS****Chapter I—Department of State**

[Dept Reg. 108.458]

**PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED****Nonimmigrant Documentary Waivers**

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is amended by revising the first sentence of § 41.6(e) (1) to add Cuba to the list of countries or areas named therein. The amended sentence reads as follows:

§ 41.6. Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

(e) *Aliens in immediate transit*—(1) *Aliens in bonded transit*. A visa and a passport shall not be required of an alien, other than an alien who is a citizen of Albania, Bulgaria, Communist-controlled China ("Chinese People's Republic"), Cuba, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, North Korea ("Democratic People's Republic of Korea"), North Viet-Nam ("Democratic Republic of Viet-Nam"), Poland, Rumania, the Soviet Zone of Germany ("German Democratic Republic"), or the Union of Soviet Socialist Republics, and resident of one of said countries, who is being transported in immediate and continuous transit through the United States in accordance with the terms of a contract, including a bonding agreement, entered into between the transportation line and the Attorney General under the provisions of section 238(d) of the Act, to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country.

The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulation contained therein involves foreign affairs functions of the United States.

Dated: January 18, 1961.

JOHN W. HANES, JR.,  
Administrator, Bureau of Security and Consular Affairs, Department of State.

Dated: January 18, 1961.

J. M. SWING,  
Commissioner of Immigration and Naturalization, Immigration and Naturalization Service, Department of Justice.

[F.R. Doc. 61-578; Filed, Jan. 23, 1961; 8:49 a.m.]

No. 14—2

**Title 30—MINERAL RESOURCES****Chapter I—Bureau of Mines, Department of the Interior****SUBCHAPTER E—MECHANICAL EQUIPMENT FOR MINES; TESTS FOR PERMISSIBILITY AND SUITABILITY; FEES**

[Bureau of Mines Schedule 31]

**PART 36—MOBILE DIESEL-POWERED TRANSPORTATION EQUIPMENT FOR GASSY NONCOAL MINES AND TUNNELS****Procedures for Testing for Permissibility**

On pages 10534-40 of the FEDERAL REGISTER of November 3, 1960, there was published a notice and text of proposed regulations to be included as Part 36 of Subchapter E of Title 30, Code of Federal Regulations, prescribing procedures for testing for permissibility and approval of Mobile Diesel-Powered Transportation Equipment for Gassy Noncoal Mines and Tunnels.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections, concerning the proposed regulations. Objections were received from several sources to the restriction of the use of electrical components to headlight units, as described in § 36.32. However, until an adequate safeguard is available, such as a continuous methane-monitoring system with an automatic power shutoff device to deenergize electrical components in dangerous atmospheres, electrical components will be restricted to headlight units.

Some suggestions were considered valid and reasonable for clarifying purposes. Minor editorial corrections have been made. As a result of the suggestions, clarifying language has been added to the text of the Regulations as follows:

1. In subparagraph (3) of paragraph (b) of § 36.25 after the word "off" in the eighth line the word "automatically" is inserted.

2. In subparagraph (1) of paragraph (c) of § 36.25 in the next to the last and last lines delete the phrase "which is used as a flame arrester" and also delete the commas before and after this phrase. At the end of subparagraph (1) of paragraph (c) of § 36.25 add the sentence, "When the cooling box is used as a flame arrester, one safety device may be accepted provided it controls a safe minimum water level in the cooling box and also prevents the final exhaust temperature from exceeding 185° F."

All other comments were considered fully preliminary to adopting the regulations in the present form as set forth below. The regulations shall be effective on the date of publication in the FEDERAL REGISTER.

MARLING J. ANKENY,  
Director, Bureau of Mines.

Approved: January 16, 1961.

FRED A. SEATON,  
Secretary of the Interior.

Part 36 of Title 30 reads as follows:

**Subpart A—General Provisions**

- |       |                                                                                                   |
|-------|---------------------------------------------------------------------------------------------------|
| Sec.  |                                                                                                   |
| 36.1  | Purpose.                                                                                          |
| 36.2  | Definitions.                                                                                      |
| 36.3  | Consultation.                                                                                     |
| 36.4  | Mobile diesel-powered transportation equipment for which certificates of approval may be granted. |
| 36.5  | Letters of certification.                                                                         |
| 36.6  | Applications.                                                                                     |
| 36.7  | Fees.                                                                                             |
| 36.8  | Date for conducting tests.                                                                        |
| 36.9  | Conduct of investigations, tests, and demonstrations.                                             |
| 36.10 | Certificates of approval.                                                                         |
| 36.11 | Approval plates.                                                                                  |
| 36.12 | Changes after certification.                                                                      |
| 36.13 | Withdrawal of certification.                                                                      |

**Subpart B—Construction and Design Requirements**

- |       |                                                    |
|-------|----------------------------------------------------|
| 36.20 | Quality of material, workmanship, and design.      |
| 36.21 | Engine for equipment considered for certification. |
| 36.22 | Fuel-injection system.                             |
| 36.23 | Engine intake system.                              |
| 36.24 | Engine joints.                                     |
| 36.25 | Engine exhaust system.                             |
| 36.26 | Composition of exhaust gas.                        |
| 36.27 | Fuel-supply system.                                |
| 36.28 | Signal or warning device.                          |
| 36.29 | Brakes.                                            |
| 36.30 | Rerolling device.                                  |
| 36.31 | Fire extinguisher.                                 |
| 36.32 | Restriction of electrical components.              |
| 36.33 | Headlight units.                                   |

**Subpart C—Test Requirements**

- |       |                                                                              |
|-------|------------------------------------------------------------------------------|
| 36.40 | Test site.                                                                   |
| 36.41 | Testing methods.                                                             |
| 36.42 | Inspection.                                                                  |
| 36.43 | Determination of exhaust-gas composition.                                    |
| 36.44 | Maximum allowable fuel: air ratio.                                           |
| 36.45 | Quantity of ventilating air.                                                 |
| 36.46 | Explosion tests of intake and exhaust systems.                               |
| 36.47 | Tests of the exhaust-gas cooling system.                                     |
| 36.48 | Tests of surface temperature of engine and components of the cooling system. |
| 36.49 | Tests of exhaust-gas dilution system.                                        |
| 36.50 | Tests of fuel tank.                                                          |
| 36.51 | Inspection and tests of headlight units.                                     |

AUTHORITY: §§ 36.1 to 36.51 issued under sec. 5, 36 Stat. 370, as amended, 30 U.S.C. 7. Interpret or apply secs. 2, 3, 36 Stat. 370, as amended; 30 U.S.C. 3, 5.

**Subpart A—General Provisions****§ 36.1 Purpose.**

The regulations in this part set forth the requirements for mobile diesel-powered transportation equipment to procure their approval and certification as permissible for use in gassy noncoal mines and tunnels; procedures for applying for such certification; and fees.

**§ 36.2 Definitions.**

As used in this part:

(a) "Mobile diesel-powered transportation equipment" means equipment that is (1) used for transporting the product being mined or excavated, or for transporting materials and supplies used in mining or excavating operations; (2) mounted on wheels or crawler treads (tracks); and (3) powered by a diesel engine as the prime mover.



(b) "Permissible", as applied to mobile diesel-powered transportation equipment, means that the complete assembly conforms to the requirements of this part, and that a certificate of approval to that effect has been issued.

(c) "Bureau" means the United States Bureau of Mines.

(d) "Certificate of approval" means a formal document issued by the Bureau stating that the complete assembly has met the requirements of this part for mobile diesel-powered transportation equipment and authorizing the use and attachment of an official approval plate so indicating.

(e) "Applicant" means an individual, partnership, company, corporation, association, or other organization, that designs, manufactures, assembles, or controls the assembly and that seeks a certificate of approval or preliminary testing of mobile diesel-powered transportation equipment for use in gassy noncoal mines and tunnels.

(f) "Noncoal mine" means an underground mine or tunnel in which the product being mined or excavated is incombustible.

(g) "Gassy noncoal mine" means a noncoal mine or tunnel in which flammable gas has been ignited, or in which a concentration of 0.25 percent or more, by volume, of flammable gas has been detected in the atmosphere of any open workings.

(h) "Diesel engine" means a compression-ignition, internal-combustion engine that utilizes a low-volatile hydrocarbon (diesel) fuel.

(i) "Low-volatile hydrocarbon (diesel) fuel" means a liquid fuel which has an open-cup flash point of 140° F. or more and a sulfur content of 0.5 percent or less by weight.

(j) "Component" means a piece, part, or fixture of mobile diesel-powered transportation equipment that is essential to its operation as a permissible assembly.

(k) "Subassembly" means a group or combination of components.

(l) "Explosion proof" means that a component or subassembly is so constructed and protected by an enclosure and/or flame arrester(s) that if a flammable mixture of gas is ignited within the enclosure it will withstand the resultant pressure without damage to the enclosure and/or flame arrester(s). Also the enclosure and/or flame arrester(s) shall prevent the discharge of flame or ignition of any flammable mixture that surrounds the enclosure.

(m) "Flammable mixture" means a mixture of gas, such as methane, natural gas, or similar hydrocarbon gas with normal air, that will propagate flame or explode violently when initiated by an incandescent source.

(n) "Flame arrester" means a device so constructed that flame or sparks from the diesel engine cannot propagate an explosion of a flammable mixture through it.

(o) "Normal operation" means that each component and the entire assembly of the mobile diesel-powered transportation equipment performs the functions for which they were designed.

(p) "Fuel-air ratio" means the composition of the mixture of fuel and air in the combustion chamber of the diesel engine expressed as weight—pound of fuel per pound of air.

### § 36.3 Consultation.

By appointment, applicants or their representatives may visit the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh 13, Pennsylvania, to discuss with qualified Bureau personnel proposed mobile diesel-powered transportation equipment to be submitted in accordance with the regulations of this part. No charge is made for such consultation and no written report thereof will be submitted to the applicant.

### § 36.4 Mobile diesel-powered transportation equipment for which certificates of approval may be granted.

Certificates of approval will be granted for completely assembled mobile diesel-powered transportation equipment only. Subassemblies or components may be granted letters of certification in accordance with § 36.5 of this part.

### § 36.5 Letters of certification.

When a component or subassembly meets all of the applicable requirements of Subparts B and C of this part, and also its normal operation will not be affected by connection to adjacent components or subassemblies, the Bureau will issue to the applicant, upon his request, a letter of certification informing him that additional inspection or tests of the component or subassembly will not be required when it is incorporated without modification in a piece of completely assembled mobile diesel-powered transportation equipment. The applicant may cite this letter of certification to another applicant who seeks approval and certification of his completely assembled mobile diesel-powered transportation equipment and who desires to incorporate the component or subassembly in such equipment.

### § 36.6 Applications.

(a) No investigation or testing will be undertaken by the Bureau except pursuant to a written application, in duplicate, accompanied by a check, bank draft, or money order, payable to the United States Bureau of Mines, to cover the fees; and all drawings, specifications, descriptions, and related materials. The application and all related matters and correspondence concerning it shall be addressed to the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh 13, Pennsylvania, Attention: Chief, Branch of Electrical-Mechanical Testing.

(b) Drawings, specifications, and descriptions shall be adequate in detail to identify fully the complete assembly, components, and subassemblies. Drawings, specifications, and descriptions shall include:

(1) Assembly drawing(s) showing the overall dimensions of the equipment, location and capacity of the fuel tank, location of flame arresters, exhaust-gas conditioner and its water-supply tank, if applicable, exhaust-gas dilution system, and other details that are essential to the functioning of the equipment.

(2) Detailed drawings showing the intake, combustion, and exhaust systems of the diesel engine, including joints and gaskets; the turbulence or precombustion chamber, if applicable; injector assembly and nozzle details; and any surfaces that form the combustion chamber or part thereof, such as the cylinder head, piston and cylinder liner; and other features that may affect permissibility, such as exhaust-gas conditioner and flame arresters.

(3) A schematic drawing of the fuel system showing piping, connections, fuel filters, fuel-injection pump, and mechanical governor assembly. All components shall be identified to permit adjustment, as necessary, and the location of seals or locks to prevent tampering shall be indicated.

(4) Drawing(s) specifying the kind of material and detailed dimensions of the components of explosion-proof enclosures, including joints and openings.

(5) Drawing(s) showing the construction of headlights, battery boxes, including seals or locks, and method of mounting.

(6) Other drawings, specifications, or descriptions identifying any feature that the Bureau considers necessary for certification of the particular mobile diesel-powered transportation equipment.

(c) Shipment of the mobile diesel-powered transportation equipment or component part or subassembly as the case may be, shall be deferred until the Bureau has notified the applicant that the application will be accepted. Shipping instructions will be issued by the Bureau and shipping charges shall be prepaid by the applicant. Upon completion of the investigation and notification thereof to the applicant by the Bureau, the applicant shall remove his equipment promptly from the test site (see § 36.40).

(d) The application shall state that the equipment is completely developed and of the design and materials that the applicant believes to be suitable for a finished marketable product or is a completely developed component or subassembly suitable for incorporation in a finished marketable complete assembly of mobile diesel-powered transportation equipment. If the final design of a component depends upon results of the Bureau's tests, this shall be so stated in the application.

(e) For a complete investigation leading to approval and certification, the applicant shall furnish a complete operable assembly for inspecting and testing. Spare parts and expendable components, subject to wear in normal operation, shall be supplied by the applicant to permit continuous operation of the equipment during test periods. If special tools are necessary to disassemble any component for inspection or test, the applicant shall furnish these with the equipment to be tested.

(f) With each application, the applicant shall submit evidence of how he proposes to inspect his completely assembled mobile diesel-powered transportation equipment at the place of manufacture or assembly before shipment to



purchasers. Ordinarily such inspection is recorded on a factory inspection form and the applicant shall furnish to the Bureau a copy of his factory inspection form or equivalent with his application. The form shall direct attention to the points that must be checked to make certain that all components of the assembly are in proper condition, complete in all respects, and in agreement with the drawings, specifications, and descriptions filed with the Bureau.

(g) With the application, the applicant shall furnish to the Bureau complete instructions for operating and servicing his equipment. After completing the Bureau's investigation, if any revision of the instructions is required, a revised copy thereof shall be submitted to the Bureau for inclusion with the drawings and specifications.

### § 36.7 Fees.

(a)

|                                                                                                                                                           |         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1. Preliminary review of drawings, specifications, descriptions, and related data, each complete assembly.....                                            | \$35.00 |
| 2. Complete tests to determine composition of exhaust gas from diesel engine under various load and speed conditions.....                                 | 400.00  |
| 3. Tests to determine the effectiveness of air intake or exhaust flame arrester in an intake or exhaust system.....                                       | 120.00  |
| 4. Check tests on redesigned components or equipment in item 3 above requiring less than 20 tests.....                                                    | 60.00   |
| 5. Complete inspection of an intake or exhaust flame arrester.....                                                                                        | 35.00   |
| 6. Complete inspection of manifolds, exhaust conditioners, and other components that comprise the intake and exhaust systems.....                         | 45.00   |
| 7. Complete investigation of headlight, storage-battery type.....                                                                                         | 270.00  |
| 8. Complete investigation of headlight, dry-cell type.....                                                                                                | 160.00  |
| 9. Tests to determine the cooling efficiency of an exhaust conditioner and rate of water consumption.....                                                 | 45.00   |
| 10. Each final inspection of completely assembled equipment.....                                                                                          | 80.00   |
| 11. Tests of exhaust gas dilution not made concurrently with final inspection of completely assembled equipment.....                                      | 55.00   |
| 12. Final examination and recording of drawings and specifications requisite to the issuance of a certificate of approval.....                            | 45.00   |
| 13. Final examination and recording of drawings and specifications requisite to the issuance of a letter of certification.....                            | 30.00   |
| 14. Examining and recording drawings and specifications requisite to the issuance of an extension of certification, each 4 hours or fraction thereof..... | 15.00   |

<sup>1</sup> Fee for partial tests shall be in proportion to the work done but the minimum shall be \$100.00. If the applicant requests discontinuation of the investigation after preparations for engine tests have begun the minimum fee shall be \$100.00 regardless of the progress of the tests.

<sup>2</sup> Maximum normal fee; actual fee as detailed in Part 20 of Subchapter D of this chapter (Schedule 10, revised, the latest revision of which is Schedule 10C).

15. Tests conducted in the field shall require the same fee as when conducted on the Bureau's premises. In addition the applicant shall reimburse the Bureau for such travel, subsistence, and incidental expenses as may be required by its representative(s) in accordance with the allowances stated in the standard "Government Travel Regulations."

(b) If an applicant is unable to determine the exact fee that should be submitted with his application, the information will be provided, upon request, addressed to the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh 13, Pennsylvania, Attention: Chief, Branch of Electrical-Mechanical Testing. The surplus from any fee submitted in excess of requirements will be refunded to the applicant upon completion or termination of the investigation.

### § 36.8 Date for conducting tests.

The date of acceptance of an application will determine the order of precedence for testing when more than one application is pending, and the applicant will be notified of the date on which tests will begin. If a complete assembly, or component, or subassembly fails to meet any of the requirements, it shall lose its order of precedence. However, if the cause of failure is corrected, testing will be resumed after completing such test work as may be in progress.

### § 36.9 Conduct of investigations, tests, and demonstrations.

(a) Prior to the issuance of a certificate of approval or a letter of certification, as the case may require, only Bureau personnel, representatives of the applicant, and such other persons as may be mutually agreed upon may observe the investigations or tests. The Bureau shall hold as confidential and shall not disclose principles or patentable features prior to certification, nor shall it disclose any details of drawings, specifications, descriptions, or related materials. After the issuance of a certificate of approval, the Bureau may conduct such public demonstrations and tests of the approved mobile diesel-powered transportation equipment for gassy noncoal mines and tunnels as it deems appropriate. The conduct of all investigations, tests, and demonstrations shall be under the sole direction and control of the Bureau, and any other persons shall be present only as observers, except as noted in paragraph (b) of this section.

(b) When requested by the Bureau, the applicant shall provide assistance in disassembling parts for inspection, preparing parts for testing, and operating equipment during the tests.

### § 36.10 Certificate of approval.

(a) Upon completion of investigation of a complete assembly of mobile diesel-powered transportation equipment, the Bureau will issue to the applicant either a certificate of approval or a written notice of disapproval, as the case may require. No informal notification of approval will be issued. If a certificate of

approval is issued, no test data or detailed results of tests will accompany it. If a notice of disapproval is issued, it will be accompanied by details of the defects, with a view to possible correction. The Bureau will not disclose, except to the applicant, any information on mobile diesel-powered transportation equipment upon which a notice of disapproval has been issued.

(b) A certificate of approval will be accompanied by a list of drawings, specifications, and related material covering the details of design and construction of equipment upon which the certificate of approval is based. Applicants shall keep exact duplicates of the drawings, specifications, and descriptions that relate to equipment which has received a certificate of approval, and these are to be adhered to exactly in production of the certified equipment.

(c) A certificate of approval will be accompanied by an appropriate caution statement specifying the conditions to be observed for operating and maintaining the equipment and to preserve its permissible status.

### § 36.11 Approval plates.

(a) A certificate of approval will be accompanied by a photograph of an approval plate, bearing the seal of the Bureau of Mines and spaces for the approval number, the type, the serial number, and ventilation requirement; the name of the complete assembly; and the name of the applicant.

(b) The applicant shall reproduce the design as a separate plate, which shall be attached, in a suitable place, on each complete assembly to which it relates. The size, type, and method of attaching and location of an approval plate are subject to the Bureau's approval. The method of affixing the approval plate shall not impair the permissibility (explosion-proof) features of the complete assembly of mobile diesel-powered transportation equipment.

(c) The approval plate identifies the equipment, to which it is attached, as permissible and is the applicant's guarantee that the equipment complies with the requirements of this part. Without an approval plate no equipment is considered permissible under the provisions of this part.

(d) Use of the approval plate obligates the applicant to whom the certificate of approval was granted to maintain in his plant the quality of each complete assembly bearing it and guarantees that it is manufactured and assembled according to the drawings, specifications, and descriptions upon which a certificate of approval was based.

### § 36.12 Changes after certification.

If an applicant desires to change any feature of certified equipment, he shall first obtain the Bureau's approval of the change, pursuant to the following procedure:

(a) Application shall be made as for an original certificate of approval, requesting that the existing certification be extended to cover the proposed changes and shall be accompanied by



drawings, specifications, and related data, showing the changes in detail.

(b) The application will be examined by the Bureau to determine whether inspection and testing of the modified equipment or component or subassembly will be required. Testing will be necessary if there is a possibility that the modification may affect adversely the performance of the equipment. The Bureau will inform the applicant whether such testing is required; the component, subassembly, and related material to be submitted for that purpose; and the fee.

(c) If the proposed modification meets the requirements of this part, a formal extension of certification will be issued, accompanied by a list of new and corrected drawings and specifications to be added to those already on file as the basis for the extension of certification.

#### § 36.13 Withdrawal of certification.

The Bureau reserves the right to rescind for cause any certificate of approval granted under this part.

### Subpart B—Construction and Design Requirements

#### § 36.20 Quality of material, workmanship, and design.

(a) The Bureau will test only equipment that in the opinion of its qualified representatives is constructed of suitable materials, is of good quality workmanship, based on sound engineering principles, and is safe for its intended use. Since all possible designs, arrangements, or combinations of components and materials cannot be foreseen, the Bureau reserves the right to modify the construction and design requirements of subassemblies or components and tests thereof to obtain the same degree of protection as provided by the tests described in Subpart C of this part.

(b) The quality of material, workmanship, and design shall conform to the applicable requirements of § 18.24 of Part 18 of Subchapter D of this Chapter (Schedule 2, revised, the latest revision of which is Schedule 2F), titled "Detailed requirements for Class I parts."

#### § 36.21 Engine for equipment considered for certification.

Only equipment powered by a compression-ignition (diesel) engine and burning diesel fuel (see § 36.21(i)) will be considered for approval and certification. The starting mechanism shall be actuated pneumatically, hydraulically, or by other methods acceptable to the Bureau. Electric starting shall not be accepted. Engines burning other fuels or utilizing volatile fuel starting aids will not be investigated.

#### § 36.22 Fuel-injection system.

This system shall be so constructed that the quantity of fuel injected can be controlled at a desired maximum value and shall be so arranged that this adjustment can be changed only after breaking a seal or unlocking a compartment. Provision shall be made for convenient adjustment of the maximum fuel-injection rate to that required for safe operation at different altitudes (elevations above sea level). The governor,

controlling engine speed and fuel injection, shall not directly affect airflow to the engine and provision shall be made to seal or lock its adjustment compartment. Filters shall be provided to insure that only clean fuel will reach the injection pump or injectors.

#### § 36.23 Engine intake system.

(a) *Construction.* The intake system (exclusive of the air cleaner) shall be designed to withstand an internal pressure equal to 4 times the maximum pressure observed in explosion tests, which are described in § 36.46 of Subpart C of this part, or a pressure of 125 pounds per square inch, whichever is the lesser. Joints in the intake system shall be formed by metal flanges fitted with metal or metal-clad gaskets, positively positioned by through bolts or other suitable means for secure assembly, or shall meet the requirements for flanged metal-to-metal flame-proof joints as required in paragraph (b) of § 36.20 of this subpart. Either type of joint shall withstand repeated explosions within the intake system without permanent deformation and shall prevent the propagation of flame through the joint into a surrounding flammable mixture.

(b) *Intake flame arrester.* (1) The intake system shall include a flame arrester that will prevent an explosion within the system from propagating to a surrounding flammable mixture. This flame arrester shall be between the air cleaner and the intake manifold and shall be attached so that it may be removed for inspecting, cleaning, or repairing. Its construction shall be such that it may be cleaned readily. The flame arrester shall be of rugged construction to withstand the effects of repeated explosions within the intake system, and the material of construction shall resist deterioration in service. It shall be so mounted in the equipment assembly that it is protected from accidental external damage.

(2) The parts of any flame arrester shall be positively positioned to produce a flame path that will arrest the propagation of an explosion and shall be so designed that improper assembly is impossible. In flame arresters of the spaced-plate type, the thickness of the plates shall be at least 0.125 inch; spacing between the plates shall not exceed 0.018 inch; and the plates forming the flame path shall be at least 1 inch wide. The unsupported length of the plates shall be short enough that deformation during the explosion tests shall not exceed 0.002 inch. Corrosion-resistant metal shall be used to construct flame arresters.

(c) *Air shutoff valve.* The intake system shall include a valve, operable from the operator's compartment, to shut off the air supply to the engine. This valve shall be constructed to permit its operation only after the fuel supply to the engine is shut off. In reverse operation the valve must open fully before fuel can be supplied to the engine.

(d) *Air cleaner.* An air cleaner shall be included in the engine intake system and so arranged that only clean air will enter the flame arrester. The resistance to airflow shall not increase rapidly in

dusty atmospheres. Filters of the self-cleansing (oil-bath) type will be considered satisfactory for this application. Provision, satisfactory to the Bureau, shall be made to prevent overfilling the oil-bath air cleaner.

(e) *Vacuum-gage connection.* A connection shall be provided in the intake system for temporary attachment of a vacuum gage to indicate the pressure drop under flow conditions. This opening shall be closed by a plug or other suitable device that is sealed or locked in place except when a gage is attached.

#### § 36.24 Engine joints.

(a) *Cylinder head.* The joint between the cylinder head and block of the engine shall be fitted with a metal or metal-clad gasket satisfactory to the Bureau held securely in position by through bolts or other suitable means to prevent a change in alignment. This joint shall provide an adequate flame barrier with the gasket in place.

(b) *Valve guides.* Valve guides shall be long enough to form an adequate flame barrier along the valve stem.

(c) *Gaskets.* All metal or metal-clad gaskets shall maintain their tightness during repeated explosions within the engine and its intake and exhaust systems to prevent the propagation of flame.

#### § 36.25 Engine exhaust system.

(a) *Construction.* The exhaust system of the engine shall be designed to withstand an internal pressure equal to 4 times the maximum pressure observed in explosion tests, which are described in § 36.46 of Subpart C of this part, or a pressure of 125 pounds per square inch, whichever is the lesser. The system shall withstand repeated internal explosions without permanent deformation or deterioration.

(b) *Exhaust flame arrester.* (1) The exhaust system of the engine shall be provided with a flame arrester to prevent propagation of flame or discharge of heated particles to a surrounding flammable mixture. The flame arrester shall be so positioned that only cooled exhaust gas will discharge through it and shall be so designed and attached that it can be removed for inspecting, cleaning, or repairing. Its construction shall be such that it can be cleaned readily. The flame arrester shall be of rugged construction to withstand the effects of repeated explosions within the exhaust system, and the material of construction shall resist deterioration in service. It shall be so mounted in the equipment assembly that it is protected from accidental external damage.

(2) A spaced-plate flame arrester for the exhaust system shall meet the same requirements as flame arresters for the intake system (see § 36.23(b)(2)).

(3) In lieu of a spaced-plate flame arrester, an exhaust-gas cooling box or conditioner may be used as the exhaust flame arrester provided that explosion tests demonstrate that the cooling box will arrest flame. When used as a flame arrester the cooling box shall be equipped with a device to shut off automatically the fuel supply to the engine at a safe minimum water level. A cooling box used as a flame arrester shall withstand



repeated explosion tests without permanent deformation. It shall be constructed of material, satisfactory to the Bureau, that will resist deterioration in service.

(c) *Exhaust cooling system.* (1) A cooling system shall be provided for the engine exhaust gas. The heat-dissipation capacity shall be capable of reducing the temperature of the undiluted exhaust gas to less than 170° F. at the point of discharge from the cooling system under any condition of engine operation acceptable to the Bureau. A device shall be provided that will automatically shut off the fuel supply to the engine immediately if the temperature of the exhaust gas exceeds 185° F. at the point of discharge from the cooling system. Provision shall be made, acceptable to the Bureau, to prevent restarting the engine after the fuel supply has been shut off automatically until the water supply in the cooling box has been replenished. When the cooling box is used as a flame arrester, one safety device may be accepted provided it controls a safe minimum water level in the cooling box and also prevents the final exhaust temperature from exceeding 185° F.

(2) Cooling shall be obtained by passing the exhaust gas through water or a dilute aqueous chemical solution held in a cooling box or conditioner, or by a spray of water or a dilute aqueous chemical solution that will enter the exhaust system near the outlet of the exhaust manifold, or a combination of the two methods. When a spray is used it shall be provided with a filtering device to protect the nozzle from clogging. Provisions shall be made for draining and cleaning all parts of the exhaust cooling system. Openings for draining and cleaning shall be closed and sealed or locked by a method satisfactory to the Bureau.

(3) The cooling system shall be constructed of corrosion-resistant metal suitable for the intended application.

(4) The cooling system shall store enough water or aqueous solution to permit operation of the engine at one-third load factor for eight hours. The minimum quantity of usable water or aqueous solution available for cooling shall equal the consumption for one hour with the engine operating at maximum load and speed multiplied by 8 and this product divided by 3.

(d) *Surface temperature of engine and exhaust system.* (1) The temperature of any external surface of the engine or exhaust system shall not exceed 400° F. under any condition of engine operation prescribed by the Bureau. Water-jacketed components shall have integral jackets and provision shall be made for positive circulation of water in the jackets and to automatically shut off the engine when the temperature in the cooling jacket(s) exceeds 212° F. Insulated coverings to control surface temperature are not acceptable.

(2) When a spray is used to reduce the temperature of the exhaust gas, it shall be located as near as practicable to the outlet of the exhaust manifold.

(3) Exterior surfaces of the exhaust system shall be designed to minimize ac-

cumulation and lodgement of dust or combustible substances and to permit ready access for cleaning.

(e) *Tightness of exhaust system.* All joints in the exhaust system shall be tight to prevent the flow of exhaust gas through them under any condition of engine operation prescribed by the Bureau. A tight system shall be obtained by the use of ground joints, or thin metal or metal-clad gaskets. All such joints shall be fitted with adequate through bolts and all gaskets shall be aligned and held firmly in position by the bolts or other suitable means. Such joints shall remain tight to prevent passage of flame or propagation of repeated internal explosions to a surrounding flammable mixture.

(f) *Dilution of exhaust gas.* (1) Provision shall be made to dilute the exhaust gas with air before it is discharged into the surrounding atmosphere. The discharged exhaust gas shall be so diluted with air that the mixture shall not contain more than 0.5 percent, by volume, of carbon dioxide; 0.01 percent, by volume, of carbon monoxide; 0.0025 percent, by volume, of oxides of nitrogen (calculated as equivalent nitrogen dioxide); or 0.0010 percent, by volume, of aldehydes (calculated as equivalent formaldehyde) under any condition of engine operation prescribed by the Bureau.

(2) The final diluted exhaust mixture shall be discharged in such a manner that it is directed away from the operator's compartment and also away from the breathing zones of persons required to be alongside the equipment.

(g) *Pressure-gage connection.* A connection shall be provided in the exhaust system for convenient, temporary attachment of a pressure gage at a point suitable for measuring the total back pressure in the system. The connection also shall be suitable for temporary attachment of gas-sampling equipment to the exhaust system. This opening shall be closed by a plug or other suitable device that is sealed or locked in place except when a gage or sampling tube is attached.

#### § 36.26 Composition of exhaust gas.

(a) *Preliminary engine adjustment.* The engine shall be submitted to the Bureau by the applicant in such condition that it can be tested immediately at full load and speed. The preliminary liquid-fuel-injection rate shall be such that the exhaust will not contain black smoke and the applicant shall adjust the injection rate promptly to correct any adverse conditions disclosed by preliminary tests.

(b) *Final engine adjustment.* The liquid fuel supply to the engine shall be adjusted so that the undiluted exhaust gas shall contain not more than 0.30 percent, by volume, of carbon monoxide or 0.20 percent, by volume, of oxides of nitrogen (calculated as equivalent nitrogen dioxide, NO<sub>x</sub>) under any conditions of engine operation prescribed by the Bureau when the intake air mixture to

the engine contains 1.5±0.1 percent, by volume, of Pittsburgh natural gas.<sup>3</sup>

(c) *Coupling or adapter.* The applicant shall provide the coupling or adapter for connecting the engine to the Bureau's dynamometer.

NOTE: Preferably this coupling or adapter should be attached to the flywheel of the engine.

Clutches, transmissions, or torque converters ordinarily are not required in the coupling train.

#### § 36.27 Fuel-supply system.

(a) *Fuel tank.* (1) The fuel tank shall not leak and shall be fabricated of metal at least 1/16 inch thick, welded at all seams, except that tanks of 5 gallons or less capacity may have thinner walls which shall be preformed or reinforced to provide good resistance to deflection. A drain plug (not a valve or petcock) shall be provided and locked in position. A vent opening shall be provided in the fuel filler cap of such design that atmospheric pressure is maintained inside the tank. The size of the vent opening shall be restricted to prevent fuel from splashing through it. The filler opening shall be so arranged that fuel can be added only through a self-closing valve at least 1 foot from the exhaust manifold of the engine, preferably below it. The self-closing valve shall constitute a fuel-tight closure when fuel is not being added. Any part of the self-closing valve that might become detached during the addition of fuel shall be secured to the tank by a chain or other fastening to prevent loss.

(2) The fuel tank shall have a definite position in the equipment assembly, and no provision shall be made for attachment of separate or auxiliary fuel tanks.

(3) Capacity of the fuel tank shall not exceed the amount of fuel necessary to operate the engine continuously at full load for approximately four hours.

(b) *Fuel lines.* All fuel lines shall be installed to protect them against damage in ordinary use and they shall be designed, fabricated, and secured to resist breakage from vibration.

(c) *Valve in fuel line.* A shutoff valve shall be provided in the fuel system, installed in a manner acceptable to the Bureau.

NOTE: This shutoff valve is in addition to the normal shutoff provided in the fuel-injection system and also in addition to the air-shutoff valve.

#### § 36.28 Signal or warning device.

All mobile diesel-powered transportation equipment shall be provided with a bell, horn, or other suitable warning device convenient to the operator. Warning devices shall be operated manually or pneumatically.

#### § 36.29 Brakes.

All mobile diesel-powered transportation equipment shall be equipped with

<sup>3</sup> Investigation has shown that for practical purposes, Pittsburgh natural gas (containing a high percentage of methane) is a satisfactory substitute for pure methane in these tests.



adequate brakes acceptable to the Bureau.

#### § 36.30 Rerailing device.

All mobile diesel-powered transportation equipment designed to travel on rails in haulage service shall carry a suitable rerailing device.

#### § 36.31 Fire extinguisher.

Each unit of mobile diesel-powered transportation equipment shall be fitted with a fire extinguisher carried in a location easily accessible to the operator and protected by position from external damage. Liquid carbon dioxide extinguishers shall contain an active charge of not less than 4 pounds. Pressurized dry chemical extinguishers shall contain an active charge of not less than 2½ pounds.

#### § 36.32 Restriction of electrical components.

Mobile diesel-powered transportation equipment for gassy noncoal mines and tunnels will not be investigated for approval and certification unless the electrical components of the equipment are restricted to headlight units, as herein-after described in § 36.33.

#### § 36.33 Headlight units.

(a) A headlight and its source of electrical energy shall be constructed as a unit. The component parts of a headlight unit shall be locked or sealed by a device, acceptable to the Bureau, so that in normal use the parts are inseparable.

(b) A headlight and its source of energy shall conform to the applicable requirements of Part 20 of Subchapter D of this chapter (Schedule 10, revised, the latest revision of which is Schedule 10C) pertaining to Class 1 lamps or is constructed with equivalent safeguards that are acceptable to the Bureau.

(c) The headlight unit shall be so mounted on mobile diesel-powered transportation equipment that it is in a fixed position and protected from external damage by recessing in the equipment frame or otherwise guarded in a manner acceptable to the Bureau.

(d) At least one headlight unit shall be provided on the front and rear of each piece of mobile diesel-powered transportation equipment.

### Subpart C—Test Requirements

#### § 36.40 Test site.

Tests shall be conducted at the Bureau's Diesel Testing Laboratory, Bruce-ton, Pennsylvania, or other appropriate place(s) determined by the Bureau.

#### § 36.41 Testing methods.

Mobile diesel-powered transportation equipment submitted for certification and approval shall be tested to determine its combustion, explosion-proof, and other safety characteristics. The Bureau shall prescribe the tests and reserves the right to modify the procedure(s) to attain these objectives (see § 36.20).

#### § 36.42 Inspection.

A detailed inspection shall be made of the equipment and all components and features related to safety in operation. The inspection shall include:

(a) Investigating the materials, workmanship, and design to determine their adequacy.

(b) Checking the parts and assemblies against the drawings and specifications with respect to materials, dimensions, and locations to verify their conformance.

(c) Inspecting and measuring joints, flanges, and other possible flame paths in the intake and exhaust systems to determine whether they will prevent the issuance of flame or propagation of an internal explosion.

(d) Inspecting and measuring flame arresters to determine whether they will prevent the issuance of flame or propagation of an internal explosion.

#### § 36.43 Determination of exhaust-gas composition.

(a) Samples shall be taken to determine the composition of the exhaust gas while the engine is operated at loads and speeds prescribed by the Bureau to determine the volume of air (ventilation) required to dilute the exhaust gas (see § 36.45). The engine shall be at temperature equilibrium before exhaust-gas samples are collected or other test data are observed. At all test conditions the intake mixture shall contain  $1.5 \pm 0.1$  percent, by volume, of Pittsburgh natural gas (see footnote 3) in air. Test observations shall include the rate of fuel consumption, pressures, temperatures, and other data significant in the safe operation of diesel equipment in underground gassy noncoal mines and tunnels.

(b) Exhaust-gas samples shall be analyzed for carbon dioxide, oxygen, carbon monoxide, hydrogen, methane, nitrogen, oxides of nitrogen, and aldehydes, or any other constituent prescribed by the Bureau.

(c) The intake and exhaust systems shall be complete with all component equipment such as air cleaners, flame arresters, and exhaust cooling systems. The performance of component equipment shall be observed to determine whether it functions properly.

#### § 36.44 Maximum allowable fuel:air ratio.

(a) When an engine is delivered to the Bureau with the fuel-injection system adjusted by the applicant and tests of the exhaust-gas composition (see § 36.43) show not more than 0.30 percent, by volume, of carbon monoxide, the applicant's adjustment of the fuel-injection system shall be accepted. The maximum fuel:air ratio determined from the exhaust-gas composition shall be designated as the maximum allowable fuel:air ratio. The maximum liquid fuel rate (pounds per hour) that produces the maximum allowable fuel:air ratio shall be designated as the maximum allowable fuel rate for operating the equipment at elevations not exceeding 1,000 feet above sea level.

(b) When the carbon monoxide content of the exhaust exceeds 0.30 percent, by volume, only near maximum power output, the maximum fuel:air ratio at which carbon monoxide does not exceed 0.30 percent shall be calculated and designated as the maximum allowable fuel:air ratio. The corresponding cal-

culated liquid fuel rate shall be designated as the maximum allowable fuel rate at elevations not exceeding 1,000 feet above sea level.

NOTE: The applicant may be requested to adjust the liquid fuel rate during tests to determine the maximum allowable fuel:air ratio.

(c) The maximum allowable fuel:air ratio and maximum liquid fuel rates shall be used to calculate a liquid fuel rate-altitude table that shall govern the liquid fuel rate of engines operated at elevations exceeding 1,000 feet above sea level.

#### § 36.45 Quantity of ventilating air.

(a) Results of the engine tests shall be used to calculate ventilation (cubic feet of air per minute) that shall be supplied by positive air movement when the permissible mobile diesel-powered transportation equipment is used underground. This quantity shall be stamped on the approval plate. The quantity so determined shall apply when only one machine is operated.

(b) Determination of the ventilation rate shall be based upon dilution of the exhaust gas with normal air. The most undesirable and hazardous condition of engine operation prescribed by the Bureau shall be used in the calculations. The concentration of any of the following individual constituents in the diluted mixture shall not exceed:

0.25 percent, by volume, of carbon dioxide ( $\text{CO}_2$ ).

0.005 percent, by volume, of carbon monoxide ( $\text{CO}$ ).

0.00125 percent, by volume, of oxides of nitrogen (calculated as equivalent nitrogen dioxide,  $\text{NO}_2$ ).

The oxygen ( $\text{O}_2$ ) content of the diluted mixture shall be not less than 20 percent, by volume. The maximum quantity of normal air to produce the above dilution shall be designated the ventilation rate.

NOTE: This ventilation rate will provide a factor of safety for exposure of persons to air mixtures containing harmful or objectionable gases and for minor variations in engine performance.

#### § 36.46 Explosion tests of intake and exhaust systems.

(a) Explosion tests to determine the strength of the intake and exhaust systems to withstand internal explosions and the adequacy of the flame arresters to prevent the propagation of an explosion shall be made with the systems connected to the engine or the systems simulated as connected to the engine. The systems shall be filled with and surrounded by an explosive natural gas-air mixture. The mixture within the intake and exhaust systems shall be ignited by suitable means and the internal pressure developed by the resultant explosion shall be determined. Tests shall be conducted with the ignition source in several different locations to determine the maximum pressure developed by an internal explosion.

(b) Explosion tests shall be made with the engine at rest and with the flammable natural gas-air mixtures in the intake and exhaust systems. In other tests with the flammable mixture in mo-



tion, the engine shall be driven (externally) at speeds prescribed by the Bureau but no liquid fuel shall be supplied to the injection valves.

(c) The temperature of the flame arresters in the intake or exhaust systems shall not exceed 212° F. when an explosion test is conducted. Any water-spray cooling for the exhaust system shall not be operated and water shall not be present in the exhaust cooling boxes except when water is the cooling agent for a cooling box designed to act as a flame arrester, in which case the Bureau will prescribe the test conditions.

(d) The explosion tests of the intake and exhaust systems shall not result in:

(1) Discharge of visible flame from any joint or opening.

(2) Ignition of surrounding flammable gas-air mixture.

(3) Development of dangerous afterburning.\*

(4) Excessive pressures.

#### § 36.47 Tests of exhaust-gas cooling system.

(a) The adequacy of the exhaust-gas cooling system and its components shall be determined with the engine operating at the maximum allowable liquid fuel rate and governed speed with  $0.5 \pm 0.1$  percent, by volume, of natural gas in the intake air mixture. All parts of the engine and exhaust-gas cooling system shall be at their respective equilibrium temperatures. The cooling spray, if any, shall be operated, and all compartments designed to hold cooling water shall be filled with the quantity of water recommended by the applicant. No cooling air shall be circulated over the engine or components in the cooling system during the test.

(b) Determinations shall be made during the test to establish the cooling performance of the system, the cooling water consumption, high-water level when the system sprays excess water, and low-water level when the cooling system fails.

(c) The final exhaust-gas temperature at discharge from the cooling system, and before the exhaust gas is diluted with air, shall not exceed 170° F. or the temperature of adiabatic saturation, if this temperature is lower.

(d) Water consumed in cooling the exhaust gas under the test conditions shall not exceed by more than 15 percent that required for adiabatic saturation of the exhaust gas at the final temperature. Water in excess of that required for adiabatic saturation shall be considered as entrained water. Enough water shall be available in the cooling system or in reserve supply compartments for sustained satisfactory operation for at least 2½ hours under the test conditions.

NOTE: This amount is enough to cool the exhaust for an 8-hour shift at one-third load factor.

(e) The adequacy of the automatic fuel shutoff actuated by the temperature

of the final exhaust shall be determined with the engine operating under test conditions by withdrawing water until the cooling system fails to function. The final exhaust-gas temperature at which the liquid fuel to the engine is automatically shut off shall be noted. This temperature shall not exceed 185° F.

(f) Following the automatic fuel shutoff test in paragraph (e) of this section, the temperature of the control point shall be allowed to fall to 170° F. At this temperature and with the water replenished in the cooling system, it shall be possible to start the engine.

NOTE: If the cooling system includes a reserve supply water tank, the line or lines connecting it to the cooling compartment may require a suitable flame arrester.

(g) The effectiveness of the automatic engine shutoff, which will operate when the water in the cooling jacket(s) exceeds 212° F., shall be determined by causing the jacket temperature to exceed 212° F.

#### § 36.48 Tests of surface temperature of engine and components of the cooling system.

(a) The surface temperatures of the engine, exhaust cooling system, and other components subject to heating by engine operation shall be determined with the engine operated as prescribed by the Bureau. All parts of the engine, cooling system, and other components shall have reached their respective equilibrium temperatures. The exhaust cooling system shall be operated, but air shall not be circulated over the engine or components. Surface temperatures shall be measured at various places prescribed by the Bureau to determine where maximum temperatures develop.

(b) The temperature of any surface shall not exceed 400° F.

NOTE: The engine may be operated under test conditions prescribed by the Bureau while completely surrounded by a flammable mixture. The Bureau reserves the right to apply combustible materials, likely to be found in gassy noncoal mines or tunnels, to any surface for test. Operation under such conditions shall not ignite the flammable mixture.

#### § 36.49 Tests of exhaust-gas dilution system.

The performance and adequacy of the exhaust-gas dilution system shall be determined in tests of the complete equipment. The engine, at temperature equilibrium, shall be operated in normal air as prescribed by the Bureau. Samples of the undiluted exhaust gas and of the diluted exhaust gas, at location(s) prescribed by the Bureau, shall be considered with the data obtained from the engine test (see § 36.43) to determine that the concentrations of carbon dioxide, carbon monoxide, oxides of nitrogen, and aldehydes in the diluted exhaust shall be below the required concentrations specified in subparagraph (1) of paragraph (f) of § 36.25.

#### § 36.50 Tests of fuel tank.

The fuel tank shall be inspected and tested to determine whether: (a) It is fuel-tight, (b) the vent maintains atmospheric pressure within the tank, and

(c) the vent and closure restrict the outflow of liquid fuel.

#### § 36.51 Inspection and tests of headlight units.

Headlight units shall be inspected and tested according to the applicable requirements of Part 20 of Subchapter D of this Chapter (Schedule 10, revised, the latest revision of which is Schedule 10C).

[F.R. Doc. 61-559; Filed, Jan. 23, 1961; 8:48 a.m.]

## Title 32A—NATIONAL DEFENSE, APPENDIX

### Chapter I—Office of Civil and Defense Mobilization

[Emergency Preparedness Order No. 1]

#### EPO 1—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS TO THE SECRETARY OF AGRICULTURE

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

##### Section 1. Scope.

The Secretary of Agriculture (hereinafter referred to as the Secretary) shall, consistent with the National Plan for Civil Defense and Defense Mobilization and subject to policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM) prepare national emergency plans and develop preparedness programs covering (1) food resources, farm equipment, fertilizer, and food resource facilities, as defined below; (2) rural fire control; (3) defense against biological warfare, chemical warfare, and radiological fallout as specified in Section 5 of this order; and (4) farm community advisory service. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including an attack upon the United States.

##### Sec. 2. Definitions.

As used in this order:

(a) "Food resources" means all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk, by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. For the purposes of this order the term "food resources" also includes all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but does not include any such material after it loses its identity as an agricultural commodity or agricultural product.

\*The term "afterburning" as used in this part is applied to combustion of a flammable gas-air mixture drawn into the system under test by the cooling of the products from an explosion in the system.



(b) "Farm equipment" means equipment manufactured for use on farms in connection with the production or processing of food resources.

(c) "Fertilizer" means fertilizer in form for distribution to the users thereof.

(d) "Food resource facilities" means plants, machinery, vehicles, and other facilities for the production, processing, distribution, and storage (including cold storage) of food resources, and for domestic distribution of farm equipment and fertilizer.

### Sec. 3. Food function.

With respect to food resources, food resource facilities, farm equipment, and fertilizer the Secretary shall:

(a) *Resources.* Periodically assess food resources and facilities available from all sources in order to estimate availability in any emergency situation and analyze resource estimates in relation to estimated requirements in order to identify problem areas.

(b) *Requirements.* Periodically assemble, develop as appropriate, and evaluate requirements for food resources in any emergency, taking into account the estimated needs for military, civilian, and foreign purposes. Such evaluations shall take into consideration the geographical distribution of requirements under all conditions of attack.

(c) *Priorities and allocation.* Develop standby priorities, allocations, and distribution-control systems and related plans to insure that available food resources are properly apportioned among and distributed to civilian, military, and foreign claimants in an emergency, and develop standby priorities, allocations, and distribution-control systems and related plans for the domestic distribution of farm equipment and fertilizer.

(d) *Production and processing.* Develop standby control systems and related plans, including control of use of facilities designed to provide adequate and continuing production, processing, and storage of essential food resources in an emergency.

(e) *Salvage and rehabilitation.* Develop standby plans for salvage of food resources after determination of their safety for human or animal consumption, and develop standby plans for the rehabilitation of food resource facilities after attack.

(f) *Economic stabilization.* Cooperate with OCDM in the development of stabilization policies as they might affect agricultural production, processing, distribution, and storage, and to the extent necessary, cooperate in the development of plans for consumer rationing of food resources.

(g) *Financial aid.* Develop standby plans and procedures for providing financing and credit for farmers who might need such assistance under various mobilization conditions, and for providing assistance to food industries in obtaining necessary financing and credit in an emergency.

(h) *Facilities protection.* Adapt OCDM industry protection guidance materials to the needs of assigned food resources facilities and promote a na-

tional program to stimulate disaster preparedness and control in order to minimize the effects of overt or covert attack, and maintain continuity of production and capacity to serve essential users in an emergency. Guidance shall include, but not be limited to, organizing and training facility personnel, personnel shelter, evacuation plans, records protection, continuity of management, security, emergency repair, dispersal of facilities, and industrial mutual aid associations for an emergency.

### Sec. 4. Rural fires functions.

In cooperation with Federal, State, and local agencies, the Secretary shall develop plans for a national program and shall direct activities relating to the prevention and control of fires caused by the effects of enemy attack in the rural areas of the United States.

### Sec. 5. Biological, chemical, and radiological warfare defense functions.

The Secretary shall develop plans for a national program, direct Federal activities, and furnish technical guidance to State and local authorities concerned with (1) diagnosis and strengthening of defensive barriers and control or eradication of diseases, pests, or chemicals introduced as agents of biological or chemical warfare against animals, crops, or products thereof; (2) protective measures, treatment and handling of livestock, including poultry, agricultural commodities on farms or ranches, agricultural lands, forest lands, and water for agricultural purposes, any of which have been exposed to or affected by radiation; and (3) protection of meats and poultry (in establishments under the continuous inspection of the Department of Agriculture), and food products thereof, and agricultural commodities and products owned by the Commodity Credit Corporation or by the Secretary to assure their safety and wholesomeness and minimize losses from biological and chemical warfare, radiological effects, and other emergency hazards. The Secretary shall make recommendations to OCDM regarding the instruments, equipment, and devices necessary to carry out this responsibility.

### Sec. 6. Farm community advisory functions.

The Secretary shall conduct a rural information program to advise farmers concerning their role in an emergency and shall work with State governments, local governments, and with farm communities to reduce the vulnerability of homes, crops, and livestock to either overt or covert attack.

### Sec. 7. Claimancy.

The Secretary shall prepare plans to claim supporting materials, supplies, and services which will be needed to carry out assigned responsibilities and other essential functions of the Department before the appropriate resource agency and shall work with such agencies in developing standby programs to insure availability of such supplies and services in all emergencies.

### Sec. 8. Stockpiles.

The Secretary shall assist OCDM in formulating and carrying out plans for (1) stockpiling of strategic and critical materials, and (2) stockpiling of essential survival items. In administering Commodity Credit Corporation inventories of food resources, the Secretary shall take all possible measures to assure the availability of such inventories when and where needed in an emergency.

### Sec. 9. National program guidance.

The Secretary shall provide technical guidance to State and local governments to the end that Federal, State, and local plans concerned with food resources will be effectively coordinated. The Secretary shall maintain appropriate relations with the food industries to foster mutual understanding of Federal emergency plans which affect food resources.

### Sec. 10. Damage assessment.

The Secretary shall maintain a capability to assess the effects of attack on assigned resource areas and departmental installations, both at National and field levels, and provide assistance as appropriate to the National Resource Evaluation Center of OCDM and to OCDM field offices.

### Sec. 11. Research.

Within the framework of overall OCDM research objectives, the Secretary shall supervise or conduct research directly concerned with carrying out emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to OCDM in planning for research in areas involving the interests of the Department of Agriculture.

### Sec. 12. Federal contributions program.

The Secretary shall make recommendations to OCDM regarding appropriate program aspects of State plans submitted under sections 201(i) and 205 of the Federal Civil Defense Act of 1950, as amended.

### Sec. 13. Monitoring.

Pursuant to a cooperative agreement between the U.S. Department of Agriculture and the OCDM, the Secretary shall provide for the detection, identification, monitoring, and reporting of chemical, biological and radiological agents at selected facilities operated or controlled by the Soil Conservation Service and the Forest Service.

### Sec. 14. Interagency coordination.

The Secretary shall coordinate the Department's plans with emergency plans of other Federal agencies concerned with the development of a national food plan, such as the Department of Health, Education, and Welfare, the Department of the Interior, the Department of Defense, the Department of State, the Department of Commerce, and the Department of Labor. The Secretary shall assist the Secretary of Health, Education, and Welfare in developing programs concerning the Federal re-



sponsibility for community guidance involving the organization of emergency welfare services at the community level. The Secretary shall cooperate with, and receive foreign policy guidance from, the Department of State in matters relating to foreign requirements for food resources.

#### Sec. 15. Continuity of Department.

The Secretary shall take measures in preparation to insure continuity of the Department in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternative sites for the Department's emergency operations, and provide for the protection and maximum use of personnel, resources, and facilities.

#### Sec. 16. Department resources.

Consistent with Federal programs the Secretary shall prepare plans and agreements with States designed to make resources of the Department not immediately required to carry out its essential missions in an emergency available to the authorities directing survival operations in each community.

#### Sec. 17. Reports.

The Secretary shall make such reports as may be required by OCDM on the progress of programs specified in this order.

#### Sec. 18. Cancellations.

This order cancels and supersedes Federal Civil Defense Administration Delegation Number 2 of September 5, 1954, and Defense Mobilization Order Number I-9 of February 25, 1954.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-583; Filed, Jan. 23, 1961;  
8:49 a.m.]

[Emergency Preparedness Order No. 2]

### EPO 2—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS TO THE SECRETARY OF COMMERCE

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

#### Section 1. Scope.

The Secretary of Commerce (hereinafter referred to as the Secretary) shall, consistent with the National Plan for Civil Defense and Defense Mobilization and subject to policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM), prepare national emergency plans and develop preparedness programs covering:

(a) The production and distribution of all materials, the use of all facilities, the control of all construction, and the fur-

nishing of basic industrial services, except as follows:

(1) Production and distribution of and use of facilities for petroleum, solid fuels, gas, and electric power;

(2) Production, processing, distribution, and storage of food and the use of facilities for such production, processing, distribution, and storage;

(3) Domestic distribution of farm equipment and commercial fertilizer;

(4) Use of transportation and storage facilities (except as specified in (b) of this section);

(5) Use of communications services and facilities, housing and lodging facilities, and health and welfare facilities;

(6) Production, and related distribution, of minerals defined as all raw materials of mineral origin (except petroleum, gas, solid fuels, and source materials as defined in the Atomic Energy Act of 1954, as amended) obtained by mining and like operations and processed through the stages specified, and at the facilities designated in an Agreement between the Secretary of Commerce and the Secretary of the Interior as being within the civil defense and defense mobilization responsibilities of the Secretary of the Interior, and the construction and use of facilities designated as within the responsibilities of the Secretary of the Interior; and

(7) The distribution of items in the supply systems of the Department of Defense and the Atomic Energy Commission, and the use of services or facilities controlled by the Department of Defense or the Atomic Energy Commission.

(b) Federal action with respect to: all highways, roads, streets, bridges, tunnels, and appurtenances; highway traffic regulation; civil air transport; all coastal and intercoastal and ocean shipping, ports and port facilities; and the Saint Lawrence Seaway; except those elements of each normally operated or controlled by the Department of Defense.

(c) Fallout forecasting based on current weather data.

These plans and programs shall be designed to develop a state of readiness in those areas with respect to all degrees of national emergency, including an attack upon the United States.

#### Sec. 2. Industry functions.

Within the areas designated in section 1(a) hereof, the Secretary shall:

(a) *Requirements.* Periodically assemble, develop as appropriate, and evaluate estimated requirements for materials, equipment, facilities, and services taking into account estimated needs for military, civilian, and foreign purposes. Such evaluation will take into consideration geographical distribution of requirements under various conditions of attack.

(b) *Resources.* Periodically assess supplies of essential materials, equipment, facilities, and services from all sources in order to estimate availability under any emergency situation, and analyze resource estimates in relation to estimated requirements in order to identify problem areas.

(c) *Priorities and allocations.* Develop standby priorities, allocation, production, construction, and distribution control systems, including provisions for other Federal departments and agencies, as appropriate, to serve as allotting agents for materials made available under such systems for construction and operation of facilities assigned to them.

(d) *Claimancy.* Be prepared to claim materials, equipment, supplies, and services needed to carry out assigned responsibilities and other essential functions of the Department, before the appropriate resource agency, and work with such agencies in developing standby programs to insure availability of such supplies and services in all emergencies.

(e) *Salvage and rehabilitation.* Develop standby plans for salvage of manufactured stocks and rehabilitation of manufacturing facilities after attack.

(f) *New construction.* Develop procedures by which new facility construction proposals will be reviewed for appropriate location in the light of such area factors as locational security, availability of labor, water, and other requirements.

(g) *Industry evaluation.* Continue to identify and rate those products and services, and their producing or supporting facilities, which are of exceptional importance to mobilization readiness, national defense, or post-attack survival and recovery.

(h) *Facilities protection.* Adapt OCDM industry protection guidance material to the needs of assigned facilities and promote a national program to stimulate disaster preparedness and damage control in order to minimize the effects of overt or covert attack and to maintain continuity of capacity to serve essential users in an emergency. Guidance shall include but not be limited to organizing and training facility employees, personnel shelter evacuation plans, records protection, continuity of management, security, emergency repair, deconcentration of critical production, dispersal of facilities, and mutual aid associations for emergency.

(i) *Production capability.* Analyze potential effects of attack on actual production capability, taking into account the entire production complex including shortages of resources assigned to the Department of Commerce and to other agencies, and conduct other studies as a basis for recommending pre-attack measures that would strengthen capabilities for post-attack production.

(j) *Stockpiles.* Make studies and recommendations to OCDM and assist in formulating and carrying out plans for (1) stockpiling of strategic and critical materials, and (2) the stockpiling of essential survival items.

(k) *Financial aid.* Assist in the development of standby plans and procedures for financial aids and incentives, including credit assistance to producers, processors, and distributors who might need such assistance in various mobilization conditions, particularly those resulting from attack.

(l) *Essential activities.* Continue to develop and maintain lists of activities essential to defense production and to



minimum requirements of the civilian economy, such lists to be used in conjunction with lists of critical occupations.

### Sec. 3. Transportation functions.

Within the areas designated in section 1(b) hereof, the Secretary shall:

(a) *Highways and streets.* Develop plans for a national program, in cooperation with all Federal, State, and local government units or other agencies concerned, for technical guidance to States and direction of Federal activities relating to:

(1) *Utilization.* Plans for the utilization of highways and streets under conditions of enemy attack, including all necessary provisions to safeguard and facilitate public highway travel.

(2) *Restoration.* Plans for the most effective utilization of the Nation's highway engineering and construction resources for the emergency repair, restoration, and provision of highways, roads, streets, bridges, and tunnels.

(3) *Traffic control.* Plans concerning highway traffic control problems which may be created during a civil defense emergency.

(4) *Fallout hazards.* Plans for barricading and/or marking streets and highways, leading into or out of restricted fallout areas, for the protection of the public by external containment of traffic through hazardous areas.

(5) *Defense requirements.* Determination and evaluation, with the cooperation of other government agencies, the States, counties, and cities, of the needs for highway adaptations to meet emergency requirements and assistance in developing cooperative programs to meet such needs.

(6) *Claimancy.* Preparation to act as claimant for manpower, equipment, materials, and supplies for all programs for public highway construction and maintenance, including urban streets regardless of financing.

(b) *Civil air transportation.* Develop plans for a national program to utilize the civil air transportation resources, both domestically and internationally, in a national emergency, particularly in the following areas concerned with:

(1) *Requirements.* Obtaining from the Department of Defense and from the Civil Aeronautics Board or other appropriate civilian agencies and analyzing requirements for civil air transportation services for military operations, for essential civilian economy, and for other purposes.

(2) *Allocation.* Allocation of civil air transportation to meet the needs of the Department of Defense for military operation, Civil Aeronautics Board for the needs of the essential civilian economy and OCDM for other essential needs.

(3) *Air priority system.* Administration of a priority system to assure transportation of essential passengers, mail, and cargoes, by air transportation.

(4) *War risk insurance.* Administration of plans for the insurance of international air transportation.

(c) *Ocean shipping and ports.* Develop plans for a national program, compatible with approved plans and programs of international treaty organizations of which the United States is a

member, so that adequate ocean shipping and ports and port facilities may be available, to the extent possible, in an emergency to meet the needs of the Nation and our allies concerned with:

(1) *Shipping allocation.* Allocation of merchant shipping to meet the national requirements including those for military, foreign assistance, and emergency procurement programs, and those essential to the civilian economy. The terms "merchant shipping" and "ocean shipping" as used herein include all coastwise and intercoastal and Great Lakes shipping except that solely engaged in the transportation of passengers and cargo between United States ports on the Great Lakes.

(2) *Ship acquisition.* Provision of ships for ocean shipping by purchase, charter or requisition, by breakout from the reserve fleet, and by construction.

(3) *Operations.* Operation of ocean shipping directly or indirectly.

(4) *Traffic control.* Provision for the control of traffic through port areas to assure an orderly and continuous flow of such traffic. The term "port area(s)" as used herein includes any zone contiguous to or associated in the traffic network of an ocean or Great Lakes port, or outport location, including beach loading sites, within which facilities exist for the transshipment of persons and property between domestic carriers and carriers engaged in coastal, intercoastal, and overseas transportation.

(5) *Traffic priority.* Administration of priorities for the movement of traffic through port areas.

(6) *Port allocation.* Allocation of available ports and port facilities to meet the needs of the Nation and our allies. The term "port facilities" as used herein includes all port facilities, port equipment including harbor craft, and port services normally used in accomplishing the transfer or interchange of cargo and passengers between ocean-going vessels and other media of transportation or in connection therewith.

(7) *Support activities.* Performance of supporting activities needed to carry out the above functions, such as: ascertaining national requirements for ocean shipping including those for military and other Federal programs and those essential to the civilian economy; maintenance, repair, and arming of ships; recruitment, training, and assignment of officers and seamen; procurement, warehousing, and issuance of ships' stores, supplies, equipment, and spare parts; supervision of stevedoring and bunkering; management of terminals, shipyards, and other facilities; and maintenance of port facilities.

(8) *Claimancy.* Preparation to act as claimant for the ocean shipping and port industry for materials and manpower to assure adequate use and utilization of such ocean shipping and ports.

### Sec. 4. Weather function.

The Secretary shall prepare and issue currently, as well as in an emergency, forecasts and estimates of areas likely to be covered by fallout in event of attack and shall make this information available to the Federal, State, and local authorities for public dissemination.

### Sec. 5. Research.

Within the framework of the overall OCDM research objectives, the Secretary shall supervise or conduct research in areas directly concerned with carrying out his emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to OCDM in planning for research in areas involving the Department's interest.

### Sec. 6. Damage assessment.

The Secretary shall maintain a capability to assess the effects of attack on the assigned industries and departmental installations, both at national and field levels, and provide assistance as appropriate, including statistical support relating to human and economic data, to the National Resource Evaluation Center of OCDM and to OCDM field offices.

### Sec. 7. Economic stabilization.

The Secretary shall cooperate with OCDM in the development of suitable economic stabilization measures providing continuing guidance to the States, their political subdivisions, manufacturers, processors, and the public on the use and conservation of essential commodities in an emergency, including rationing.

### Sec. 8. Federal contributions programs.

The Secretary shall make recommendations to OCDM regarding appropriate aspects of State plans submitted under sections 201(i) and 205 of the Federal Civil Defense Act of 1950, as amended.

### Sec. 9. Monitoring.

Pursuant to a cooperative agreement between the Weather Bureau and the OCDM, the Secretary shall provide for the detection, identification, monitoring and reporting of chemical, biological and radiological agents at all facilities operated or controlled by the Weather Bureau.

### Sec. 10. Interagency coordination.

Under the general review of OCDM, the Secretary shall assume the initiative in developing joint plans for those emergency programs which involve other departments and agencies which normally have legal responsibilities for any segment of such activities. In matters affecting international relations the Secretary shall avail himself of foreign policy guidance from the Department of State.

### Sec. 11. Continuity of Department.

The Secretary shall take measures in preparation to insure continuity of the Department in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternate sites for the Department's emergency operations, and provide for the protection and maximum use of personnel, resources, and facilities.

### Sec. 12. Department resources.

Consistent with Federal programs the Secretary shall prepare plans and agreements with States designed to make resources of the Department not immediately required to carry out its essential



missions in an emergency available to the authorities directing survival operations in each community.

#### Sec. 13. Reports.

The Secretary shall make such reports as may be required by OCDM on the progress of programs specified in this order.

#### Sec. 14. Cancellations.

This order cancels and supersedes Federal Civil Defense Administration Delegations Number 2 of September 5, 1954 and Number 3 of November 22, 1955 and Defense Mobilization Order Number I-8 of February 10, 1954.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-584; Filed, Jan. 23, 1961;  
8:50 a.m.]

[Emergency Preparedness Order No. 3]

### EPO 3—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS TO THE ADMINISTRATOR OF THE FEDERAL AVIATION AGENCY

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

#### Section 1. Scope.

The Administrator of the Federal Aviation Agency (hereinafter referred to as the Administrator) shall, consistent with the National Plan for Civil Defense and Defense Mobilization, and subject to the policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM) insofar as nonmilitary programs are concerned, prepare national emergency plans and develop preparedness programs covering the emergency management of the Nation's civil airports, and civil aviation operating facilities, excluding the manufacture and priority on use of aircraft, but including national program guidance, professional training, stockpiles, monitoring, decontamination, resources and requirements, salvage and rehabilitation, damage assessment, and facilities protection. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including an attack upon the United States.

#### Sec. 2. Functions.

The Administrator shall:

(a) *Operations.* Formulate plans for the development, utilization, expansion, and emergency management of the Nation's civil airports and operating facilities and equipment required for essential civil air operations, except the manufacture and priority on use of aircraft, but including the development of standby orders for insuring the continued operation of essential civil air-

ports and civil aviation operating facilities.

(b) *National program guidance.* Develop plans and issue national program guidance designed to utilize to the maximum extent the existing nonmilitary facilities, technical competence and resources of the Federal Government, the States and the local political subdivisions thereof, and non-governmental organizations and systems engaged in aeronautical activities to promote the effective and safe use and maintenance of aeronautical facilities, equipment, and services under all conditions of national emergency.

(c) *Professional training.* Prepare and incorporate into appropriate courses dealing with aeronautics and aviation applicable civil defense knowledge and skills necessary to insure the maximum operational effectiveness of essential civil air transportation systems and facilities under all conditions of national emergency; and prepare and distribute such civil defense information to the management of air transportation systems and facilities, States and local governments, voluntary agencies, and commercial and professional groups concerned with development, utilization, expansion, and emergency management of nonmilitary aviation.

(d) *Stockpiles.* Assist OCDM in formulating and carrying out plans for (1) the stockpiling of strategic and critical materials, and (2) the stockpiling of essential survival items necessary to the maintenance of essential civil air transportation systems and facilities except the manufacture and priority of use of aircraft in a civil defense emergency.

(e) *Monitoring.* Pursuant to a cooperative agreement between the Administrator and the OCDM, provide for the detection, identification, monitoring, and reporting of chemical, biological, and radiological agents at all facilities operated or controlled by the FAA.

(f) *Decontamination.* Establish standards and provide technical advice, guidance, and consultation to Federal, State, and local civil aviation authorities on measures for minimizing the effects of chemical, biological, and radiological contamination of civil airports and civil aviation facilities, aircraft, ground equipment, and personnel.

(g) *Resources.* Periodically assess civil aviation resources, excluding the manufacture of aircraft but including maintenance and repair, available from all sources in order to estimate their availability under any emergency situation, and analyze resource estimates in relation to estimated requirements in order to identify problem areas.

(h) *Requirements.* Determine emergency requirements with respect to civil aviation programs for which the Administrator is responsible, including air navigation facilities, civil airports, and new civil aircraft and concurrent spares for nonair carrier aircraft; maintenance, repair, and operation of air carrier aircraft; and, in consultation with the Civil Aeronautics Board and Defense Air Transport Administration, new civil aircraft and concurrent spares for air carrier aircraft.

(i) *Claimancy.* Prepare to claim materials, equipment, supplies, and services needed to carry out assigned responsibilities before the appropriate resource agency, and work with such agencies in developing standby programs to insure availability of such supplies and services in all emergencies.

(j) *Salvage and rehabilitation.* Develop standby plans for salvage of supplies and equipment and the rehabilitation or replacement of essential civil air transport systems, facilities, and services after attack, excluding the manufacture of aircraft but including direction of Federal activities for the emergency clearance and restoration of essential civil airports in damaged areas.

(k) *Damage assessment.* Maintain a capability to assess the effects of attack on all air navigation, air traffic control, and aeronautical communications facilities operated by the FAA or other non-military agencies, all civil airports and landing areas, and all other facilities essential to safe and effective air transportation operations in a national emergency; and provide information to the National Resource Evaluation Center and to the Regional Offices of the OCDM relating to damage sustained by the above elements of the civil aviation industry.

(l) *Facilities protection.* Analyze the potential effects of attack as a basis for developing and promoting a national program of vulnerability reduction, disaster preparedness, and damage control designed to minimize the effects of overt or covert attack on civil aviation facilities except aircraft manufacturing plants. Such program shall include, but shall not be limited to, guidance with respect to deconcentration and dispersal of facilities and equipment, organization and training of facility employees, shelter, evacuation and relocation plans, records protection, continuity of management, security, and emergency repair and recovery of facilities.

(m) *Federal contributions programs.* Make recommendations to OCDM regarding appropriate aspects of State plans submitted under sections 201(i) and 205 of the Federal Civil Defense Act of 1950, as amended.

#### Sec. 3. Research.

Within the framework of the overall OCDM research objectives, the Administrator shall supervise or conduct research directly concerned with carrying out emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to OCDM in planning for research in areas involving the agency's interest.

#### Sec. 4. Continuity of Agency.

The Administrator shall take measures in preparation to insure continuity of the Agency in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternative sites for the Agency's emergency operations, and provide



for the protection and maximum use of personnel, resources, and facilities.

#### Sec. 5. Reports.

The Administrator shall make such reports as may be required by OCDM on the progress of programs specified in this order.

#### Sec. 6. General provisions.

(a) In the development of emergency plans and programs pursuant to this order and in the execution of functions assigned thereunder, the Administrator shall perform his functions in a manner compatible with his responsibilities to the Department of Defense under the Federal Aviation Act of 1958, and without compromise of his ability to discharge such responsibilities.

(b) Nothing in this order shall be construed to limit the authority vested in the Administrator by the Federal Aviation Act of 1958 or any other statute or to impose any other additional requirements with respect to the exercise of the Administrator's authority and responsibility in an "air defense emergency" as distinguished from a "civil defense emergency."

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-585; Filed, Jan. 23, 1961;  
8:50 a.m.]

[Emergency Preparedness Order No. 4]

### EPO 4—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION HEALTH FUNCTIONS TO THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

#### Section 1. Scope.

The Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) shall, consistent with the National Plan for Civil Defense and Defense Mobilization and subject to policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM), prepare national emergency plans and develop preparedness programs covering health service, civilian health manpower, and health resources as defined below. Those plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency including an attack upon the United States.

#### Sec. 2. Definitions.

As used in this order:

(a) "Health Services" means medical and dental care in all of their specialties and adjunct therapeutic fields; the planning, provision, and operation of first aid stations, hospitals, and clinics; preventive health services, including detec-

tion, identification and control of communicable diseases, their vectors, and other public health hazards, inspection and control of purity and safety of food, drugs, and biologicals; food and milk sanitation; public water supplies; sewage and other waste disposal; registration and disposal of the dead; prevention and alleviation of water pollution; vital statistics services; preventive and curative care related to human exposure to radiological, chemical, and biological warfare agents; and rehabilitation and related services for disabled survivors. For the purposes of this order, health services do not encompass the following areas for which the Department of Agriculture has responsibility: protection of meat and meat products, and poultry and poultry products in establishments under continuous inspection service by the Department of Agriculture, veterinary biologicals, agricultural commodities and products owned by the Commodity Credit Corporation or the Secretary of Agriculture, livestock, agricultural commodities owned or harvestable on farms and ranches, agricultural lands, water for agricultural purposes, and registration of pesticides.

(b) "Health Manpower" means physicians (including osteopaths); dentists, sanitary engineers; registered professional nurses, and such other occupations as may be included in the List of Health Manpower Occupations issued for the purposes of this order by the Director of OCDM after agreement by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(c) "Health Resources" means manpower, material, and facilities required to prevent the impairment of, or to improve, or restore the physical and mental health conditions of the civilian population.

#### Sec. 3. Functions.

With respect to health services, manpower, and resources as defined above, the Secretary shall:

(a) *National program guidance.* Develop plans and issue guidance designed to utilize to the maximum extent the existing civilian health resources of the Federal Government, and with their active participation, assistance, and consent, the health resources of the States and local political subdivisions thereof, and of other civilian organizations and agencies concerned with the health of the population, under all conditions of national emergency. The Secretary shall also maintain relations with health professions and institutions to foster mutual understanding of Federal emergency plans which affect health activities.

(b) *Research.* Within the framework of the overall OCDM research objectives, supervise or conduct research in areas directly concerned with carrying out emergency preparedness responsibilities. With respect to the health services assignment, this is defined as but not limited to (1) development of medical means for the prevention and care of casualties (including those from thermonuclear weapons, radiation exposure, and biological and chemical warfare, as

well as from other weapons); (2) research in preventive medicines, basic biology, and environmental sanitation directed to maintaining the health of noncasualty population; (3) preattack and postattack target research in health services; (4) protection of resources and protocol essential to carrying out long-term basic and applied research in the postattack period; and, (5) the development of techniques for the most efficient utilization of civilian health manpower. The Secretary shall also designate representatives for necessary ad hoc or task force groups and provide advice and assistance to OCDM in planning for research in areas involving the Department's interest.

(c) *Professional training.* Develop a nationwide program to train health manpower both in professional and technical occupational content and in civil defense knowledge and skills. The Secretary shall also develop and distribute health education materials for inclusion in the curricula of schools, colleges, professional schools, OCDM schools, and other educational facilities throughout the United States, and he shall develop and distribute civil defense information relative to health services to States, voluntary agencies, and professional groups.

(d) *Reserve program.* Develop plans for a program to provide Public Health Service reserve personnel from support areas to those damaged by enemy attack.

(e) *Stockpiles.* Assist OCDM in formulating and carrying out stockpiling of (1) strategic and critical materials, and (2) survival items. Within these programs, and in accordance with emergency operational plans of OCDM, the Secretary shall plan and direct the procurement, storage, maintenance, inspection, survey, distribution, and utilization of essential supplies and equipment for health services except for special equipment to be specified from time to time by OCDM.

(f) *Emergency water supply.* Prepare plans to assure the provision of usable public water supplies for essential community uses in an emergency. This shall include inventorying existing supplies, developing new sources, performing research setting standards, and planning distribution. In carrying on these activities, the Secretary shall have primary responsibility but shall make maximum use of the resources and competence of State and local authorities and of other Federal agencies.

(g) *Radiation.* Develop and coordinate programs of radiation measurement and assessment as may be necessary to carry out the responsibilities involved in the provision of health services as defined in section 2; and make recommendations to OCDM regarding the instruments, equipment, and devices necessary to carry out this responsibility.

(h) *Biological and chemical warfare.* Develop plans for the direction of a nationwide program for the prevention, detection, and identification of human exposure to chemical and biological warfare agents. The Secretary shall also establish standards and provide technical advice and consultation to Federal,



State, and local authorities on measures for minimizing the effects of biological or chemical warfare as defined in section 2; and make recommendations to OCDM regarding operating equipment necessary to carry out this responsibility.

(i) *Food, drugs, and biologicals.* Plan and develop national programs for the maintenance of purity and safety in the manufacture and distribution of food, drugs, and biologicals as defined in section 2 of this order.

(j) *Disabled survivors.* Prepare national plans for emergency operations of vocational rehabilitation and related agencies, and for measures and resources necessary to rehabilitate and make available for employment those disabled persons among the surviving population.

(k) *Resources.* Periodically assess the health resources available from all sources, in order to estimate the availability of these resources under any emergency situation, and analyze resource estimates in relation to estimated requirements in order to identify problem areas.

(l) *Relative urgencies.* Develop standards and relative urgencies for emergency health services for guidance of Federal agencies, States, and communities in providing maximum protection to survivors, and for the purpose of conserving, improving availability, and allocating health resources.

(m) *Requirements.* Periodically assemble, develop as appropriate, and evaluate requirements with respect to all hospital and health facilities, including new construction and equipment as needed in the health field, including sanitation, potable water, and sewage facilities. The Secretary shall also estimate related requirements for manpower, transportation, power, fuels, and other supplies or services needed in support of emergency responsibilities of the Department. Such evaluations will take into consideration the geographical distribution of requirements under all conditions of attack.

(n) *Claimancy.* Prepare plans to claim materials, equipment, supplies, and services needed to carry out assigned responsibilities and other essential functions of the Department, from the appropriate resource agency, and work with such agencies in developing standby programs to insure availability of such supplies and services in all emergencies.

(o) *Distribution.* Within the framework of OCDM priority and allocation policy and system, develop standby allotments and distribution control systems for civilian health services and resources.

(p) *Facilities protection.* Adapt OCDM industry protection guidance material to the needs of health services facilities and promote a national program to stimulate, guide, and assist facilities such as hospitals, clinics, public water plants, waste disposal plants, and facilities for other health services, in methods of disaster preparedness and control in order to minimize the effects of overt or covert attack and maintain continuity of capacity to serve the public in an emergency. Guidance and assist-

ance shall include but not be limited to: organizing and training facility employees, employee shelter, evacuation plans, records protection, continuity of management, security, emergency repair, dispersal of facilities, and the organization of mutual aid associations for emergency.

(q) *Salvage and rehabilitation.* Develop standby plans for salvage of supplies and equipment and rehabilitation of health services facilities after attack.

(r) *Damage assessment.* Maintain a capability to assess the effects of attack on assigned service and resource areas both at national and field levels, and provide necessary assistance to the National Resource Evaluation Center of OCDM, and to OCDM field offices.

(s) *Federal contributions programs.* Make recommendations to OCDM regarding appropriate program aspects of State plans submitted under sections 201(i) and 205 of the Federal Civil Defense Act of 1950, as amended.

#### Sec. 4. Interagency coordination.

Under the general review of OCDM, the Secretary shall assume the initiative in developing joint plans for the coordination of civilian health emergency programs of those departments and agencies which have responsibility for any segment of such activities. Such departments and agencies include, but are not limited to, the Veterans Administration, the Department of Commerce, the Department of Agriculture, the Department of Treasury, the Selective Service System, the Department of Labor, and the Housing and Home Finance Agency. Arrangements will be made with the Department of Defense for use of available military medical services and resources which may not be required for military operations or the support thereof. The Secretary and the Atomic Energy Commission shall assure the coordination of the efforts of their respective agencies in the emergency civilian health program.

#### Sec. 5. Continuity of Department.

The Secretary shall take measures in preparation to insure the continuity of the Department in event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternate sites for the Department's emergency operations, and provide for the protection and maximum use of personnel, resources, and facilities.

#### Sec. 6. Department resources.

Consistent with Federal programs the Secretary shall prepare plans and agreements with States designed to make all resources of the Department not immediately required to carry out its essential missions in an emergency available to the authorities directing survival operations in each community.

#### Sec. 7. Reports.

The Secretary shall make such reports as may be required by OCDM on the

progress of programs specified in this order.

#### Sec. 8. Cancellations.

This order cancels and supersedes Federal Civil Defense Administration Delegation Number 1 of July 14, 1954.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-586; Filed, Jan. 23, 1961; 8:50 a.m.]

[Emergency Preparedness Order No. 5]

### EPO 5—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS CONCERNING EDUCATION AND WELFARE TO THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

#### Section 1. Scope.

The Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) shall, consistent with the National Plan for Civil Defense and Defense Mobilization and subject to policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM), prepare national emergency plans and develop preparedness programs covering emergency welfare services and education programs as defined below. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency including an attack upon the United States.

#### Sec. 2. Definitions.

As used in this order:

"Emergency Welfare Services" means feeding; clothing; housing or lodging in private and congregate facilities; registration; locating and reuniting families; care of unaccompanied children, the aged, the handicapped, and other groups needing specialized care or service; necessary financial or other assistance; counseling and referral services to families and individuals; aid to welfare institutions under national emergency or post-attack conditions; and all other feasible welfare aid and services to people in need during a civil defense emergency. Emergency welfare services also include the organization, direction, and provision of services to be instituted before an anticipated attack, in the event of strategic or tactical evacuation, and after any such attack.

"Education," as used in this order, means the utilization of formal public and private school systems, from elementary through college, for the dissemination of instructional material guidance, and training in the protection of life and property from enemy attack.



### Sec. 3. Welfare functions.

The Secretary shall:

(a) *National program guidance.* Develop plans and issue guidance for an integrated national program for emergency welfare services and, working with other Federal departments and agencies, provide for extending guidance and technical assistance to State and local welfare departments in the development and operation of their plans for the community organization of emergency welfare services.

(b) *Federal support.* Cooperate in the development of Federal support procedures through joint planning with other departments and agencies, including but not limited to the Post Office Department, the Department of Labor, and the Selective Service System (registration and information), the Housing and Home Finance Agency (housing and related community facilities), and resource agencies, i.e., the Department of Agriculture (food resources), the Department of the Interior (fuel and power), and the Department of Commerce (consumer survival commodities), for logistic support of State and community welfare services under civil defense emergency conditions.

(c) *Research.* Within the framework of the over-all OCDM research objectives, supervise or conduct research in areas directly concerned with carrying out emergency preparedness responsibilities, designate representative for necessary ad hoc or task force groups, and provide advice and assistance to OCDM in planning for research in areas involving the Department's interest.

(d) *Welfare training.* Develop plans for the direction of a nationwide program to train emergency welfare manpower for the execution of the functions set forth in this order; develop welfare educational materials, including self-help program materials for use with welfare organizations and professional schools; and develop and distribute civil defense information relative to emergency welfare services to States, voluntary agencies, and professional groups.

(e) *Priorities.* Develop standards and priorities for emergency welfare services for guidance of States and communities in providing maximum protection to survivors, and for the purpose of guiding distribution of available welfare resources.

(f) *Financial assistance.* Develop standby plans for financial assistance to individuals and welfare institutions in need of such assistance under various mobilization conditions, particularly those resulting from attack on the United States.

(g) *Facilities protection.* Adapt OCDM industry protection guidance material to the needs of appropriate welfare facilities and promote a national program to stimulate disaster preparedness and control in order to minimize the effects of overt or covert attack and maintain continuity of capacity to serve the public in an emergency. Guidance shall include but not be limited to organizing and training facility personnel, personnel shelter, evacuation plans,

records protection, continuity of management, security, and emergency repair.

(h) *Damage assessment.* Provide data assistance as appropriate to the National Resource Evaluation Center of OCDM and to OCDM regional offices to assist in maintaining a capability to assess the effects of attack on people and on the organization and facilities essential to carrying out the welfare functions.

(i) *Federal contributions programs.* Make recommendations to OCDM regarding appropriate program aspects and the Merit System provisions of State plans submitted under sections 201(i) and 205 of the Federal Civil Defense Act of 1950, as amended.

(j) *Professional liaison.* Maintain relations with national voluntary welfare organizations and related national professional and business organizations to foster mutual understanding and support of emergency welfare plans and activities.

### Sec. 4. Education functions.

The Secretary shall: (a) *Protective instruction.* Develop and issue through appropriate channels instructional materials and provide suggestions and guidance to assist schools, colleges, and other educational agencies to incorporate emergency protective measures and long-range civil defense and defense mobilization concepts into their programs. This involves assistance to various levels of education to develop an understanding of the role of the individual, family, and community in civil defense in the nuclear age.

(b) *Research.* Within the framework of the over-all OCDM research objectives supervise or conduct research in areas directly concerned with carrying out emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to OCDM in planning for research in areas involving the Department's interest.

(c) *Facilities protection.* Adapt OCDM industry protection guidance to the needs of assigned facilities and promote a national program to stimulate disaster preparedness and control in order to minimize the effects of overt or covert attack. Guidance shall include but not be limited to organizing and training facility personnel, personnel shelter, evacuation plans, records protection, continuity of management, security, and emergency repair.

(d) *Damage assessment.* Maintain a capability to assess the effects of attack on critical educational institutions, both at national and field levels. Provide assistance as appropriate to the National Resource Evaluation Center of OCDM and to OCDM regional offices.

(e) *Federal contributions programs.* Make recommendations to OCDM regarding appropriate program aspects of State plans submitted under sections 201(i) and 205 of the Federal Civil Defense Act of 1950, as amended.

(f) *Professional liaison.* Maintain relations with educators, national and State education associations, foundations, and other related organizations to foster mutual understanding and sup-

port of civil defense and defense mobilization activities.

### Sec. 5. Continuity of Department.

The Secretary shall take measures in preparation to insure continuity of the Department in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternate sites for the Department's emergency operations, and provide for the protection and maximum use of personnel, resources, and facilities.

### Sec. 6. Department resources.

Consistent with Federal programs, the Secretary shall prepare plans and agreements with States designed to make resources of the Department not immediately required to carry out its essential missions in an emergency available to the authorities directing survival operations in each community.

### Sec. 7. Reports.

The Secretary shall make such reports as may be required by OCDM on the progress of programs specified in this order.

### Sec. 8. Cancellations.

This order cancels and supersedes Federal Civil Defense Administration Delegation No. 1 of July 14, 1954.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-587; Filed, Jan. 23, 1961;  
8:50 a.m.]

[Emergency Preparedness Order No. 6]

## EPO 6—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS CONCERNING HOUSING TO THE HOUSING AND HOME FINANCE ADMINISTRATOR

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

### Section 1. Scope.

The Housing and Home Finance Administrator (hereinafter referred to as the Administrator) shall, consistent with the National Plan for Civil Defense and Defense Mobilization and subject to policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM) prepare national emergency plans and develop preparedness programs covering all aspects of lodging or housing and provide assistance to OCDM in developing economic stabilization measures pertaining to real estate credit controls and rent stabilization programs. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including an attack upon the United States.



## Sec. 2. Functions.

The Administrator shall:

(a) *Billeting.* Develop plans for a billeting program, including advice and guidance for State and local government agencies in the administration thereof. Billeting plans not directly concerned with public housing projects sponsored by the Administrator shall be presented to the Department of Health, Education, and Welfare for incorporation in the general welfare guidance program for States.

(b) *Housing.* Develop plans for the emergency repair and restoration to use of damaged housing, for the construction and management of emergency housing units, and for the emergency conversion to dwelling use of nonresidential structures with public funds through direct Federal action or through financial or credit assistance.

(c) *Communities.* Develop plans for the selection, acquisition, development, and disposal of areas for civilian uses in new, expanded, restored, or relocated communities; and for the construction of housing for new or restored communities.

(d) *New Housing.* Develop plans for the construction and management of new housing when and where it is determined to be necessary with public funds through direct Federal action; or the construction of new housing through financial or credit assistance.

(e) *Economic stabilization.* Cooperate with OCDM and the Federal financial agencies in the development of preparedness measures involving financing, real estate credit, and rent stabilization.

(f) *Population movement.* Participate with OCDM and other agencies in the preparation of plans for determining which areas are to be restored and in the development and coordination of plans for the movement of people on both a temporary and permanent basis from areas to be abandoned to areas where housing is available or can be made available.

(g) *Shelter.* Assist OCDM in the development of plans to encourage the construction of blast or fallout shelters for both old and new housing in conformance to the national shelter policy.

(h) *Vulnerability.* Participate with OCDM and other agencies in promoting the dispersal of new or expanding communities, defense plants, and government installations in conformance to national vulnerability reduction policy.

(i) *Resources.* Periodically assess the housing resources available for civilian use from all sources in order to estimate availability under any emergency situation, and analyze resource estimates in relation to estimated requirements in order to identify problem areas.

(j) *Priorities.* Develop standards and priorities for guidance of States and communities in making maximum use of and allocating available housing resources.

(k) *Requirements.* Periodically assemble, develop as appropriate, and evaluate requirements with respect to billeting, temporary lodging, and new housing construction, and estimate related requirements for manpower, transportation, power, fuels, and other sup-

plies or services needed in support of emergency responsibilities of the Agency. Such estimates will take into consideration the geographical distribution of requirements under all conditions of attack.

(l) *Claimancy.* Prepare plans to claim materials, equipment, supplies, and services needed in support of assigned responsibilities and other essential functions of the Agency, before appropriate resource agency, and work with such agencies in developing standby programs to insure availability of such supplies and services in all emergencies.

(m) *Distribution.* Develop standby allocation and distribution control systems consistent with the priorities and allocations procedures prescribed by the Department of Commerce for materials and equipment needed for housing, and develop programs for the domestic distribution and use of mobile lodging facilities under all degrees of emergency.

(n) *Stockpiles.* Assist OCDM in formulating and carrying out plans for (1) stockpiling of strategic and critical materials, and, (2) the stockpiling of essential survival items in the housing field.

(o) *Damage assessment.* Maintain a capability to assess the effects of attack on housing resources, both at national and field levels, and provide assistance as appropriate to the National Resource Evaluation Center of OCDM and to OCDM field offices.

(p) *Research.* Within the framework of the overall OCDM research objectives, supervise or conduct research in areas directly concerned with carrying out emergency preparedness responsibilities. Designate representatives for necessary ad hoc or task force groups and provide advice and assistance to OCDM in planning for research in areas involving the Agency's interest.

## Sec. 3. Interagency coordination.

Under the general review of OCDM, the Administrator shall assume the initiative in developing joint plans for the coordination of civilian housing emergency programs of those departments and agencies which normally have legal responsibilities for any segment of such activities.

## Sec. 4. Continuity of Agency.

The Administrator shall take measures in preparation to insure continuity of the Agency in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternate sites for the Agency's emergency operations, and provide for the protection and maximum use of personnel, resources, and facilities.

## Sec. 5. Agency resources.

Consistent with Federal programs the Administrator shall prepare plans and agreements with States designed to make resources of the Agency not immediately required to carry out its essential missions in an emergency available to the authorities directing survival operations in each community.

## Sec. 6. Reports.

The Administrator shall make such reports as may be required by OCDM on the progress of programs specified in this order.

## Sec. 7. Cancellations.

This Order cancels and supersedes Federal Civil Defense Administration delegation Number 2 of September 5, 1954, and Defense Mobilization Order Number I-14 of November 26, 1954.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-588; Filed, Jan. 23, 1961;  
8:50 a.m.]

[Emergency Preparedness Order No. 7]

## EPO 7—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS TO THE SECRETARY OF THE INTERIOR

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

## Section 1. Scope.

The Secretary of the Interior (hereinafter referred to as the Secretary) shall, consistent with the National Plan for Civil Defense and Defense Mobilization, and subject to policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM), prepare national emergency plans and develop preparedness programs covering (1) electric power; (2) petroleum and gas; (3) solid fuels; and (4) minerals. These plans and programs shall be designed to provide a state of readiness in these resources areas with respect to all conditions of national emergency, including an attack upon the United States.

## Sec. 2. Definitions.

As used in this order:

(a) The term "electric power" means all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(b) The term "petroleum" means crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage.

(c) The term "gas" means natural gas (including helium) and manufactured gas, including pipelines for their movement and facilities specially designed for their storage.

(d) The term "solid fuels" means all forms of anthracite, bituminous, sub-bituminous, and lignitic coals, coke, and coal chemicals produced in the coke making process.

(e) The term "minerals" means all raw materials of mineral origin (except petroleum, gas, solid fuels, and source materials as defined in the Atomic Energy Act of 1954, as amended) obtained by mining and like operations and



processed through the stages specified and at the facilities designated in an Agreement between the Secretary of the Interior and the Secretary of Commerce as being within the civil defense and defense mobilization responsibilities of the Secretary of the Interior.

### Sec. 3. Functions.

With respect to the resources defined above, the Secretary shall:

(a) *Production and distribution.* Develop standby systems to control the production and distribution of assigned resources.

(b) *Requirements.* Periodically assemble, develop as appropriate, and evaluate requirements for assigned resources in any emergency, taking into account estimated needs for military, civilian, and foreign purposes. Such evaluation will take into consideration geographical distribution of requirements under all conditions of attack.

(c) *Resources.* Periodically assess assigned resources available from all sources in order to estimate availability under any emergency situation, and analyze resource estimates in relation to estimated requirements in order to identify problem areas.

(d) *Claimancy.* Prepare plans to claim materials, equipment, supplies, and services needed in support of assigned responsibilities and other essential functions of the Department before the appropriate resource agency, and work with such agencies in developing standby programs to insure availability of such supplies and services in all emergencies.

(e) *Mineral development.* Prepare standby programs for the encouragement as needed of the exploration, development and mining of critical and strategic minerals and metals.

(f) *Production.* Provide guidance and leadership to assigned industries in the development of plans and programs to insure the continuity of production in the event of an attack, and cooperate with the Department of Commerce in the identification and rating of essential facilities.

(g) *Facilities protection.* Adapt OCDM industry protection guidance material to needs of industries concerned with assigned products, and promote a national program to stimulate disaster preparedness and control in order to minimize the effects of overt or covert attack and maintain continuity of production and capacity to serve essential users under emergency. Guidance shall include but not be limited to: Organizing and training facility personnel, personnel shelters, evacuation plans, records protection, continuity of management, security, emergency repair, dispersal of facilities, and mutual aid associations for emergency.

(h) *Stockpiles.* Assist OCDM in formulating and carrying out plans for (1) stockpiling of strategic and critical materials, and (2) the stockpiling of essential survival items.

(i) *Operations.* Develop and maintain standby programs, including the necessary orders and regulations, for the operation of producers of assigned prod-

ucts under various mobilization conditions.

(j) *Salvage and rehabilitation.* Develop standby plans for the salvage of stocks and rehabilitation of producing facilities for assigned products after attack.

(k) *Mobilization base.* Analyze the problems involved in the maintenance of an adequate mobilization base and recommend necessary programs to accomplish this maintenance.

(l) *Damage assessment.* Maintain a capability to assess the effects of attack on assigned products, producing facilities, and departmental installations both at national and field levels, and provide assistance as appropriate to the National Resources Evaluation Center of OCDM and to OCDM field offices.

(m) *Research.* Within the framework of the over-all OCDM research objectives, supervise or conduct research directly concerned with carrying out emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to OCDM in planning for research in areas involving the Department's interest.

(n) *Economic stabilization.* Cooperate with OCDM in the development of economic stabilization policies as they might affect the energy and minerals supply, production, and marketing programs, and the conservation of essential commodities in an emergency, including rationing.

(o) *Financial aid.* Develop standby plans and procedures for financial aids and incentives, including credit assistance to producers, processors, and distributors who might need such assistance in various mobilization conditions, particularly those resulting from attack.

(p) *Monitoring.* Pursuant to a cooperative agreement between the Department of the Interior and the OCDM, the Secretary shall provide for the detection, identification, monitoring and reporting of chemical, biological and radiological agents at selected facilities operated or controlled by the Department of the Interior.

### Sec. 4. Interagency coordination.

Under the general review of OCDM, the Secretary shall assume the initiative in the coordination of emergency plans and programs of departments and agencies having legal responsibilities with respect to any segment of fuel, energy, and mineral activity. The Secretary shall assign to the Federal Power Commission responsibility for developing such emergency plans and programs as he shall specify for the production and transmission of electric power and natural gas which are within the general scope of the Commission's competence, statutory authority and other assigned responsibilities. Such plans and programs shall be subject to his approval. Arrangements will also be made with the Department of Defense for use of military fuels and power resources which may be made available over and above military requirements during an emergency. In developing and administering programs related to the international

aspects of fuel, energy, and minerals, the Secretary shall avail himself of foreign policy guidance from the Department of State.

### Sec. 5. Continuity of Department.

The Secretary shall take measures in preparation to insure continuity of the Department in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternate sites for the Department's emergency operations, and provide for the protection and maximum use of personnel, resources and facilities.

### Sec. 6. Department resources.

Consistent with Federal programs, the Secretary shall prepare plans and agreements with States designed to make resources of the Department not immediately required to carry out its essential missions in an emergency available to the authorities directing survival operation in each community.

### Sec. 7. Reports.

The Secretary shall make such reports as may be required by OCDM on the progress of programs specified in this order.

### Sec. 8. Cancellations.

This Order cancels and supersedes Federal Civil Defense Administration Delegation No. 3 of November 22, 1954 and Defense Mobilization Order No. I-13 of November 12, 1954.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-589; Filed, Jan. 23, 1961;  
8:50 a.m.]

[Emergency Preparedness Order No. 8]

## EPO 8—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS TO THE SECRETARY OF LABOR

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

### Section 1. Scope.

The Secretary of Labor (hereinafter referred to as the Secretary) shall, consistent with the National Plan for Civil Defense and Defense Mobilization and subject to the policy direction and central program control of the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM), prepare national emergency plans and develop preparedness programs covering civilian manpower mobilization (excluding such responsibility for health manpower as is assigned to the Department of Health, Education, and Welfare), wage and salary stabilization, worker incentives and protection, manpower resources and requirements, skill development and training, assessment of damage to labor force,



research, labor-management relations, and critical occupations. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including an attack upon the United States.

## Sec. 2. Functions.

The Secretary shall:

(a) *Civilian manpower mobilization.* Develop plans and issue guidance designed to utilize to the maximum extent civilian manpower resources, such plans and guidance to be developed with the active participation and assistance of the States and local political subdivisions thereof, and of other organizations and agencies concerned with the mobilization of the people of the United States. Such plans shall include, but not necessarily be limited to:

(1) *Manpower management.* Recruitment, selection and referral, training, employment, stabilization including appeals procedure, proper utilization, and determination of the skill categories critical to meeting the labor requirements of defense and essential civilian activities, other than health manpower functions assigned to the Department of Health, Education, and Welfare.

(2) *Priorities.* Procedures for translating survival and production urgencies into manpower priorities to be used as guides for allocating available workers.

(3) *National guidance.* Technical guidance to States for the utilization of the nationwide system of public employment offices and other appropriate agencies for screening, recruiting, and referring workers, and for other appropriate activities to meet mobilization and civil defense needs in each community.

(b) *Wage and salary stabilization.* Develop plans and procedures for wage and salary stabilization and for the national and field organization necessary for the administration of such a program in an emergency, including investigation, compliance and appeals procedures; statistical studies of wage, salaries and prices for policy decisions and to assist operating stabilization agencies to carry out their functions.

(c) *Worker incentives and protection.* Develop plans and procedures for wage and salary compensation and death and disability compensation for authorized civil defense workers and, as appropriate, measures for unemployment payments, re-employment rights, and occupational safety, and other protection and incentives for the civilian labor force during an emergency.

(d) *Resources.* Periodically assess manpower resources in total, by specific skill categories and occupations, and by geographical locations, in order to estimate availability under any emergency situation, and analyze resource estimates in relation to estimated requirements in order to identify problem areas.

(e) *Requirements.* Develop, in coordination with manpower-using agencies, plans, procedures and standards for presenting claims for civilian manpower; periodically obtain and analyze, or make,

estimates of requirements for manpower, in total and by specific skill categories and occupations currently and for any emergency, taking into account the estimates of needs for military and civilian purposes; and advise the OCDM on the manpower implications of alternative program decisions. Such evaluation will take into consideration the geographical distribution of requirements under all conditions of attack.

(f) *Claimancy.* Prepare plans to claim materials, equipment, supplies and services needed in support of assigned responsibilities and other essential functions of the Department before appropriate resources agencies, and work with such agencies in developing standby programs to insure the availability of such supplies and services in all types of emergencies.

(g) *Skill development and training.* Initiate current action programs to overcome or offset present or anticipated manpower deficiencies including those identified as a result of resources and requirements studies.

(h) *Damage assessment.* Maintain a capability to assess the effects of an attack upon manpower resources, Departmental installations, and State employment security agencies, both at national and field levels, and provide assistance as appropriate to the National Resource Evaluation Center of OCDM and to the OCDM field organization.

(i) *Research.* Within the framework of the overall OCDM research objectives, supervise or conduct research directly concerned with carrying out emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to OCDM in planning for research in areas involving the Department's interest.

(j) *Labor-management relations.* Develop, after consultation with the Department of Commerce, the Department of Defense, the National Labor Relations Board, the Federal Mediation and Conciliation Service, the National Mediation Board, and other appropriate agencies and groups, plans and procedures including organization plans for the maintenance of effective labor-management relations during a national emergency.

(k) *Critical occupations.* Develop and maintain the List of Critical Occupations for use, when appropriate, with lists of essential activities as developed by the Department of Commerce. With the Secretary of Defense, the Director of Selective Service System, and such other persons as the Director of OCDM may designate, the Secretary shall develop policies applicable to the induction and deferment of personnel for the armed services, except for civilian personnel in the ready reserves.

(l) *Federal contributions programs.* Make recommendations to OCDM regarding appropriate program aspects of State plans submitted under sections 201(i) and 205 of the Federal Civil Defense Act of 1950, as amended.

## Sec. 3. Interagency coordination.

Under the general review of OCDM, the Secretary shall assume the initiative in developing joint plans for civilian manpower mobilization programs in consultation with those departments and agencies which normally have legal responsibilities for any segment of such activities. Such departments and agencies include, but are not limited to, the Department of Defense, the Selective Service System, the Department of Health, Education, and Welfare, the Railroad Retirement Board, the Maritime Administration of the Department of Commerce, the National Science Foundation, the Department of State, and the Civil Service Commission.

## Sec. 4. Continuity of Department.

The Secretary shall take measures in preparation to insure continuity of the Department in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternate sites for the Department's emergency operations, and provide for the protection and maximum use of personnel, resources, and facilities.

## Sec. 5. Department resources.

Consistent with Federal programs, the Secretary shall prepare plans and agreements with States designed to make all Federal resources of the Department not immediately required to carry out its essential missions in an emergency available to the authorities directing survival operations in each community.

## Sec. 6. Reports.

The Secretary shall make such reports as may be required by OCDM on the progress of programs specified in this order.

## Sec. 7. Cancellations.

This order cancels and supersedes Federal Civil Defense Administration Delegation Number 2 of September 5, 1954, and Defense Mobilization Order I-10 of May 24, 1954.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-590; Filed, Jan. 23, 1961; 8:50 a.m.]

[Emergency Preparedness Order No. 9]

## EPO 9—ASSIGNING CERTAIN CIVIL DEFENSE AND DEFENSE MOBILIZATION FUNCTIONS TO THE POSTMASTER GENERAL

By virtue of the authority vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), Executive Order 10773 of July 1, 1958, as amended, and Executive Order 10902 of January 9, 1961, it is hereby ordered as follows:

### Section 1. Scope.

The Postmaster General shall, consistent with the National Plan for Civil Defense and Defense Mobilization and



# RULES AND REGULATIONS

subject to policy direction and central program control by the Office of Civil and Defense Mobilization (hereinafter referred to as OCDM), assist in the development of a national emergency registration system. These plans and programs shall be designed to develop a state of readiness in this area with respect to all conditions of national emergency including an attack upon the United States.

## Sec. 2. Functions.

The Postmaster General shall:

(a) *Registration system.* Assist in planning a national program and developing technical guidance for States, and directing Post Office activities concerned with (1) registering persons and families, (2) receiving and answering welfare inquiries, and (3) reuniting families in civil defense emergencies.

(b) *Forms.* Procure, transport, store, and distribute safety notification and emergency change of address cards in quantities and to localities jointly determined by the OCDM and the Post Office Department.

(c) *Training.* Conduct training programs for postal employees which will enable them to operate emergency Central Postal Directories and to assist in the operation of a national emergency registration system designed to (1) deliver the mail, and (2) support local welfare activities in reuniting families.

## Sec. 3. Damage assessment.

Maintain a capability to assess the effects of attack on its postal service and resources, both at national and field levels, and provide assistance, as appropriate, to the National Resource Evaluation Center of OCDM, and OCDM field offices.

## Sec. 4. Continuity of Department.

The Postmaster General shall take measures in preparation to insure continuity of the Department in the event of attack or other disaster. He shall establish and promulgate lines of succession to official positions, provide for the safekeeping of essential records, establish control centers and alternate sites for the Department's emergency operations, and provide for the protection and maximum use of personnel, resources, and facilities.

## Sec. 5. Department resources.

Consistent with Federal programs, the Postmaster General shall prepare plans and agreements with States designed to make resources of the Post Office not immediately required to carry out its essential mission in an emergency available to the authorities directing survival operations in each community.

## Sec. 6. Reports.

The Postmaster General shall make such reports as may be required by OCDM on the progress of programs specified in this order.

Dated: January 10, 1961.

LEO A. HOEGH,  
Director.

[F.R. Doc. 61-591; Filed, Jan. 23, 1961;  
8:50 a.m.]

## Title 50—WILDLIFE AND FISHERIES

### Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

#### PART 33—SPORT FISHING

#### Stillwater National Wildlife Refuge, Nevada

The following special regulation is issued.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

#### NEVADA

##### STILLWATER NATIONAL WILDLIFE REFUGE

Sport fishing on the Stillwater National Wildlife Refuge, Nevada, is permissible only under the following conditions:

(a) Species permitted to be taken: All species.

(b) Open season: January 20, 1961, through December 31, 1961.

(c) Daily creel limits: As prescribed by current regulations of Nevada Fish and Game Commission.

(d) Methods of fishing:

1. Tackle: As prescribed by State regulations.

2. Boats: Boats with motors up to 10 hp may be used for fishing.

(e) Description of areas open to fishing:

Fishing is permitted in accordance with (a) above on the posted area which comprises approximately 1,700 acres and 7 percent of the total refuge and which is described as follows: Stillwater Point Reservoir.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective January 20, 1961, through December 31, 1961.

HARRY A. GOODWIN,  
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 12, 1961.

[F.R. Doc. 61-553; Filed, Jan. 23, 1961;  
8:46 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

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

[Public Land Order 2253]

[Fairbanks 012151]

#### ALASKA

#### Renaming of the Kuskokwim National Wildlife Range

It is ordered that the name of the Kuskokwim National Wildlife Range be changed to the Clarence Rhode National Wildlife Range.

This wildlife range was established by Secretarial order of December 6, 1960 (25 F.R. 12597, Public Land Order 2213) which contains a detailed description of the area involved.

This order is effective upon signature of this order.

FRED A. SEATON,  
Secretary of the Interior.

JANUARY 16, 1961.

[F.R. Doc. 61-555; Filed, Jan. 23, 1961;  
8:46 a.m.]



# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Part 903 ]

[Docket No. AO-10-A24]

### MILK IN ST. LOUIS, MO., MARKETING AREA

#### Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at St. Louis, Missouri, on January 18, 19, 20, 25, and 26, 1960, pursuant to notice thereof issued on December 23, 1959 (24 F.R. 10908).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on July 28, 1960 (25 F.R. 7246; F.R. Doc. 60-7164) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. On the basis of filed exceptions certain changes were made. In view of these changes the Acting Deputy Administrator on November 15, 1960 (25 F.R. 10994; F.R. Doc. 60-10753) filed with the Hearing Clerk a revised recommended decision. Further opportunity was provided for filing written exceptions thereto.

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

1. Expansion of the marketing area;
2. Modification of the scope of regulation;
3. Changing the provisions with respect to classification, transfer, and allocation;
4. Enlargement of the surplus marketing area;
5. Revision of the Class I price and location adjustments;
6. Revision of the Class II price;
7. Location adjustments to handlers and producers;
8. Provision for direct-delivery differentials;
9. Modification of the provisions with respect to unpriced milk;
10. Adoption of a different seasonal incentive plan;
11. Revision of the payments to cooperative associations; and
12. Administrative changes.

Issues numbered 4, 5, 6, and 10 were considered separately in a decision issued by the Assistant Secretary on March 24, 1960 (25 F.R. 2623) and amendments related thereto were made effective as of

April 1, 1960. The remaining issues are considered herein.

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

1. **Marketing area.** The marketing area should be expanded to include the city of St. Charles, Missouri.

The marketing area now includes only the city and county of St. Louis on the Missouri side of the river and East St. Louis, Belleville, Scott Field and several adjacent townships on the Illinois side. However the recently promulgated Suburban St. Louis order covers a 19-county area in Illinois. Proposals considered at this hearing would add a 16-county area in Missouri to the St. Louis area.

The inclusion of the city of St. Charles will significantly affect only the St. Charles Dairy Company. This handler operates a plant located in St. Charles and distributes a sufficient proportion of his total supply of milk within the present marketing area to qualify as a pool plant in most months. However, on occasion, due to fluctuations in sales or in receipts, he fails to qualify as a pool plant. This had occurred during two months out of the 14-month period just preceding the hearing. Expansion of the marketing area would substantially increase the proportion of his in-area sales and would virtually eliminate the prospect of his losing pool status. The plant is under St. Louis County Health inspection because of its sales within that county.

No new parties would be affected by the inclusion of St. Charles in the marketing area. All of the Grade A milk distributed in the city is by the St. Charles Dairy and other presently regulated handlers. A small dairy distributes non-Grade A milk in the city, but has no Grade A shippers and would not be affected by the order.

Proposals considered at the hearing would have added to the marketing area the remainder of St. Charles County and 15 additional counties in Missouri. In his recommended and revised recommended decisions the Acting Deputy Administrator concluded that the marketing area should be expanded to include only the city of St. Charles, Missouri. In exceptions to the revised recommended decision interested parties, including cooperative associations and city plant operators, pointed out that conditions in the proposed counties have materially changed since the hearing on which this decision is based. They requested that no decision with respect to the remainder of the proposed expansion be reached until another hearing is called to receive additional evidence on the need of regulation for the proposed area. In view of the changed marketing conditions in the area, it is concluded that no other modification should be

made in the St. Louis, Missouri, marketing area at this time and another hearing should be held in the near future to reconsider the expansion.

2. **Scope of regulation.** Changes in the definition of "pool plant" and of several of the other terms which affect the scope of regulation were considered at the hearing. They will be described below under the topics "pool plant", "cooperative association", "bulk tank handler", "diversion to nonpool plants", "dairy farmer for other markets", and "route".

**Pool plant standards.** The country pool plant standards provided herein would:

1. Qualify a country plant as a pool plant for any month in which 50 percent or more of its approved milk was shipped to city plants;

2. Permit supply plants to be qualified as pool plants during the succeeding flush months of March through August if they had shipped 50 percent or more of their approved milk to city plants in each of the months of September through February;

3. Permit systems of supply plants, upon appropriate notice to the market administrator, to qualify as a group by meeting the same total requirements as apply to individual plants; and

4. Eliminate the reserve supply credit.

There are two principal categories of pool plants described under the St. Louis order. The city plants are those at which milk is bottled and distributed on wholesale or retail routes in the marketing area in such proportions as to qualify as pool plants. The second group of pool plants, the country plants, are those which qualify by the assembling and cooling of milk from farmers and the shipment of milk in bulk form to distributing plants. Commonly such shipments are needed most during the fall season when production per producer is lowest. Accordingly, these plants are pooled the following flush months if they meet pool plant requirements during specified fall months. The notice of hearing contained a proposal to change the country plant standards. Because of the close interrelationship between country plants and city plants, the city plant definition was also reviewed at the hearing.

The pool plant standards are objective measures of whether any given supply plant is closely enough associated with the market to require complete regulation and to permit participation in the marketwide pool. Such association with the market should be measured solely by the quantities of milk which are shipped from the country plant to city plants rather than by the additional requirement that such shipments qualify for reserve supply credit. The four proponent cooperatives proposed to eliminate the references in the present order to reserve supply credit and none of the



other parties at the hearing proposed to retain the credit.

The country plant pooling provisions must also be reviewed in the light of changed marketing conditions. In September 1959, 77 percent of the total market supply was collected from producers' farms in bulk tanks. It would be expected that such milk could be transported economically for longer distances than milk collected in ten-gallon cans and that bulk shipments would reduce the supply plant function. However, the country plants continued to grow in terms of the percentage of total production and number of producers through 1958, but were down slightly in each month of 1959 (through September) from the corresponding month of 1958. It is to be expected that further development of bulk tank shipment will cause the country plants to supply only the residual demands of distributing plants and to process or dispose of the daily, weekly, and seasonal reserve supplies of milk. Another marketing development is that city plants have adopted 5- and 6-day operation in place of a former 7-day operation. The result is that their demands on country plant supplies fluctuate more widely. Unless there is sufficient holding capacity to "bank" the supplies which are delivered by producers on days when there are no bottling operations, a larger total supply of milk is needed to satisfy a given quantity of Class I sales.

Therefore the cooperatives who were joint proponents of revision of the order proposed that their supply plants be pooled on the basis of these cooperatives' total identification with the market instead of on the basis of specific performance of each of their country plants. More specifically, they proposed that their supply plants be pooled if certain percentages of the total quantity of member milk were delivered to pool plants other than those operated by the cooperatives. They proposed that a minimum of 75 percent be so delivered in October and November and 50 percent in each of the other months. These receipts of member milk at the other pool plants would include both that milk delivered directly from members' farms to pool plants and that delivered from the association-operated supply plants. It was pointed out that this concept of pooling cooperative association "stand-by" plants has been adopted in other orders. However, it must be recognized that in most of these other cases the plants operated by the cooperative associations had never functioned as regular suppliers. One alternative is that such facilities could remain as nonpool plants and the milk received there accounted for as producer milk diverted to such plant for the cooperative association. However, by designating them as pool plants, the milk could occasionally be resold to other handlers under this or other orders for supplemental purposes as interhandler transfers and the necessity for diversion is obviated.

In St. Louis, however, at each of the cooperative association supply plants milk has been received regularly from producers and supplied regularly to city

plants. Furthermore, virtually the entire available supply from each of them has been shipped to city plants in the fall months. It is concluded that country supply plants should continue to be qualified only on the basis of their performance in shipping milk to city distributing plants.

A principal objective of the cooperatives' proposal was to allow more economical use of available milk. The associations pointed to the obvious economies which could be achieved if all the milk from some of the supply plants could be shipped to market to meet bottling needs while the reserve milk was concentrated at other plants for processing into manufactured dairy products. This objective can be accomplished by allowing any group of supply plants to be pooled on the basis of total shipments of the group or system of plants. Qualifying supply plants on a group or system basis will not change the quantity of milk or number of plants which can be qualified for the pool. Under the present order, any handler or group of handlers can restrict the shipments from one plant to the minimum needed in order to qualify a second supply plant.

This principle of combining plants for maintaining pool qualification should be extended to cover all plants for which a handler is responsible for the marketing of milk. The marketing arrangements should be attested to in the form of a joint certification to the market administrator. The order should provide that the joint certification to the market administrator list the plants to be included in the system and the period that they should be so considered. Each system is responsible for meeting the overall qualification. If the system as a whole cannot remain qualified, the market administrator must be notified if it is desired that one or more of the component plants be deleted from the system.

It was pointed out in exceptions received to the original recommended decision issued on this matter that the system method of qualifying country plants for pool status could provide a means whereby milk to be used primarily for manufacturing purposes could be carried in the St. Louis pool thereby dissipating returns to those producers primarily engaged in supplying milk for fluid consumption in the St. Louis marketing area. While the system method of qualifying country plants will provide for economical handling of reserve supplies of milk, it should not be used as a means of encouraging handlers to add milk to the pool which will be used for manufacturing purposes. To obviate this possible situation the order should provide that any country plant which is to be pooled within a system must be pooled on an individual basis for at least 12 months preceding its participation in the pool as part of a system. Months during which a country plant qualifies as a pool plant because of shipments during the preceding months of September through February, as noted below, would be included as months during

which the plant qualified on an individual basis.

In addition, the standards which relate to pooling city (distributing) plants should be modified. In the original recommended decision pooling standards were based on the relationship of Class I sales to receipts from producers, cooperative associations, and supply plants. To take cognizance of the fact that some St. Louis distributing plants regularly receive approved milk from other sources it would be appropriate to include such receipts in the determination of pool status. Accordingly, city plant pooling standards should be based on the relationship of Class I sales to receipts of approved milk from all sources.

The shipping percentage necessary to qualify country plants for pooling was also considered at the hearing. A country plant, or a system of country plants, should qualify in any month in which 50 percent of approved milk received from dairy farmers is shipped to pool city plants. However, under certain circumstances the percentage of shipments necessary for country plant pool status should be higher. Exceptions to the revised recommended decision emphasized that the revision of the original recommended decision in this respect was inadequate to rectify the uneconomic situation resulting when producer milk is kept at country plants for manufacturing purposes at the same time the city pool plants which are identified with the country plants are receiving other source milk for Class I utilization. It is concluded that this situation may be minimized by basing pool status for such a country plant on the lesser of:

(1) 50 percent of its receipts of approved milk from dairy farmers plus the volume of other source milk received at the city plants which receive milk from the country plant; or

(2) 75 percent of receipts of approved milk from dairy farmers.

Due to the day-to-day variations in the demand for Class I milk because of the uneven daily bottling schedule of distributing plants, it would not be practical to require that all milk received from dairy farmers at a country plant be shipped to city plants. In view of this consideration, it is reasonable to provide that a country plant need ship no more than 75 percent of its receipts to city plants which also receive other source milk in order to qualify for pool status.

If a country plant is a pool plant in each of the six months of September through February it should be qualified in the succeeding March through August period, irrespective of whether the minimum percent of its receipts is shipped during these months.

The original recommended decision provided that a plant which shipped the minimum pooling percentage during each of the months of August through January could be pooled in the following flush production months regardless of shipments. However, in recent years the market has experienced greater need for producer milk in February than it has in August. Accordingly, the months of



September through February should be the shipping months used to determine automatic pool status during flush months.

Under the present order, supply plant operators must ship 75 percent in October and November and 35 percent in three of the four months of August, September, December, January. Further, such shipments must qualify for reserve supply credit. The 75 percent requirement was suspended for the months of November 1959 and October 1960, on request of the major suppliers in the market. Total market supplies were larger in proportion to Class I sales than in the same month of the past few years, the bottling plants were receiving more of their milk directly from farms equipped with bulk tanks, and the demand for country plant milk was below the specified 75 percent level. The trend towards bulk tank handling of milk on farms is likely to continue, and 50 percent represents an appropriate maximum percentage.

**Cooperative association.** A section defining a cooperative association should be included in the order. This will facilitate subsequent order references to qualified associations and will apply to all functions of a cooperative association under the order. The definition should limit qualification to those cooperative marketing associations of producers which are qualified under the Capper-Volstead Act and which is engaged in making collective sales or marketing milk for its members.

**Bulk tank handler.** It was proposed that a cooperative association be permitted, under certain conditions, to be the handler on bulk tank milk which is moved from the farm to pool plants which are not operated by the association.

Designation of a cooperative association as the handler of bulk tank milk will assist the associations in the efficient distribution of the available milk supply according to the needs of the various pool distribution plants. In some instances, the same tank truck load of milk may be split between two or more pool plants; and in other instances, two or more pool plants may receive the entire tank truck load on different days during the same month.

In the case of member farmers who market their milk in bulk tanks, weight readings and butterfat samples will be taken at the farm by persons responsible to a cooperative association and it therefore follows that the cooperative association will be held responsible to the pool for the receipt of such milk. In the case of dairy farmers who market their milk in cans, weight readings and butterfat tests are taken at the receiving plant where individual cans of milk of the same dairy farmer are dumped and commingled and, accordingly, the pool plant is held responsible for the milk receipt.

It is necessary that the market administrator be able to establish the responsibility for milk received and, therefore, the cooperative association which intends to be the handler for bulk tank milk is required to so notify the market administrator. Otherwise, the handler

at whose pool plant the milk is received must be held accountable for it and responsible for payments to producers. It follows that the association also will notify the operator of the pool plant that it intends to be the handler for the milk.

When a cooperative association is the handler for bulk tank milk delivered to the pool plant of another handler, the transaction constitutes an interhandler transfer. In order to avoid misunderstanding concerning the classification of such transactions, the order should provide for pro rata classification at the pool plant of bulk tank milk of which the association is a handler. Such classification would be automatically subject to audit adjustment. This method will also expedite the association's report of receipts and utilization. The pool plant handler would be required to pay the association the class prices for milk received and classified in this manner. The association, in turn, would be required to settle with the pool through the producer-settlement fund and to settle with the market administrator for the administrative expense assessment on the milk.

**Diversion to nonpool plants.** The diversion provision should not be amended except to clarify that the 16-day limit applies to production days and that milk diverted to a pool plant under another order loses status as St. Louis producer milk only if it specifically so qualifies under the other order.

The present order provides that either proprietary handlers or cooperative associations may divert milk to a nonpool plant any time during the flush months of March through July and further provides that only cooperative associations may divert milk to nonpool plants on not more than 16 days during any month from August through February.

Some proprietary handlers questioned whether the provision for limited diversion by cooperatives in the months of August through February should not be extended to all handlers. They gave no specific testimony in this regard, however. There was no evidence of record that the present diversion provisions have either been so strict as to contribute to inefficient movements of milk or so lax as to encourage unnecessarily large supplies of milk to become associated with the market. It is concluded, therefore, that no substantive changes should be made in the present diversion provision.

The wording of the present diversion provision should be changed so that it will be limited to not more than 16 days production of a producer diverted to a nonpool plant in the short months. This clarifying change is desirable, because of the increased number of bulk tank shippers whose milk is delivered every other day.

There was some confusion about the status under the St. Louis order of milk diverted to a nonpool plant at which such milk would qualify as producer milk under another Federal order. Proposed amendatory language in both paragraphs (a) and (b) of § 903.7 specified that such milk would be producer milk at the plant of physical receipt rather

than under the St. Louis order. However, this objective is met by the recommended definition of "producer".

**Dairy farmer for other markets.** A definition of "dairy farmer for other markets" should be included in the order as a means of distinguishing between persons producing milk primarily for this market and those engaged in supplying fluid milk plants operated by a handler or his affiliate which are not pool plants under the order.

The definition would apply to any dairy farmer whose milk is used primarily to supply another market during those months when the St. Louis market is most in need of milk and is then moved to the St. Louis market during the following flush production months when it is no longer needed for Class I purposes on the other market. The milk of such farmers could only be used for manufacturing purposes during these flush months, thus contributing to a lower uniform price for those producers who have assumed the responsibility of regularly supplying the market. This circumstance would tend to place on St. Louis producers the unwarranted burden of carrying the surplus of other Class I markets without a compensating participation in Class I sales.

A "dairy farmer for other markets" would be excluded from "producer" status and milk received at pool plants from such farmers would be other source milk.

**Route.** The term "route" is used in the definition of pool plant to cover a number of types of distributing operations in which handlers may engage in the proposed marketing area. "Route" should be defined as a sale or delivery (including a sale from a plant or a store) of Class I milk to a wholesale or retail stop(s). Such definition would include as route distribution a sale to or through a vendor.

**3. Classification, transfer, and allocation.** Proposals to amend these interrelated provisions of the order involve (1) the accounting for inventories, (2) classification of various products containing sour cream, (3) accounting for the skim milk equivalent of added solids, (4) a revised classification procedure for milk transferred or diverted to nonpool plants, and (5) the provisions relating to long distance shipments of cream.

**Inventory accounting.** Handlers have inventories of milk and fluid milk products at the beginning and end of each month which enter into the accounting of receipts and utilization. Manufactured products on hand are not included in the inventory account because the milk used to produce such products will already have been accounted for. Handlers will need to keep records of such manufactured products but such products will not be included in inventories for the purpose of accounting for current receipts.

Closing inventory would be accounted for as Class II milk. Accordingly, it is necessary to provide a proper method of reclassifying in the following month, the milk in beginning inventory which is used for Class I disposition. The method of reclassifying beginning inventory would be in accordance with the general



procedure of giving precedence in Class I assignment to producer milk received during the month. Priority of Class I assignment is then given to receipts of the handler in the previous month from other pool sources which were priced as Class II milk.

It may be necessary to determine to what extent in the previous month other source milk became an inventory item. The amount of beginning inventory assigned to Class I milk but not covered by the reclassification charge would be subject to compensatory payments, provided that such payments would not apply to any milk which has been classified and priced as Class I milk under another Federal order.

*Sour cream and mixtures.* Sour cream is presently classified as Class I when labelled as such. By definition it must contain 18 percent or more butterfat.

Some handlers have avoided Class I by reducing the butterfat content below the 18 percent legal minimum for "cream" and labelling the product as a dressing rather than as "sour cream". However, there is another class of products also on the market. These were referred to at the hearing as "party snack" or "chip and dip" preparations. They contain sour cream or sour cream and milk mixtures but also contain a variety of other ingredients and compete more directly than sour cream with non-dairy food preparations.

The order should be clarified to classify as Class I the low-fat, soured, mixtures of cream and milk or skim milk. These are analogous to the sweet mixtures of cream and milk which are generally known as "half-and-half" and are Class I. However, the cream and milk contained in products mixed with other ingredients should continue to be classified as Class II.

*Accounting for concentrated products.* The present order includes reconstituted skim milk sold for fluid purposes as a Class I use. In plants in which both bottling and manufacturing operations are conducted the Class I use is determined by accounting for all receipts and disposition at the plant in milk equivalent terms. The necessary procedure can be clarified in the order by specifically amending § 903.44, "Computation of skim milk and butterfat in each class", to include the quantity of water originally associated with any concentrated product such as dry milk, condensed milk, and the like.

*Transfers to nonpool plants.* The transfer provisions should be changed so that milk transferred or diverted to nonpool plants would be allocated to any Class I utilization in excess of receipts from Grade A dairy farmers (plus, in the case of transfers to plants defined as pool plants pursuant to the terms of another Federal order, receipts from other handlers which are priced, and pooled under the terms of the same order). The transfer provisions should also be modified to accommodate long distance shipments of cream for manufacturing uses; and to delete the requirement of a written certification of use from the operator of the nonpool plant.

There is frequent occasion to transfer milk from pool plants to nonpool plants. This can be accomplished either as a direct transfer (usually in bulk tank) from one plant to the other or, alternatively, by a diversion for the account of a regulated handler directly from the farms to the nonpool plant. Obviously the particular milk transferred cannot be specifically accounted for at the nonpool plant, so allocation rules are necessary just as they are to accomplish classification within a fully regulated plant. At present, the milk transferred or diverted to a nonpool plant located within the prescribed surplus marketing area is assigned to the lowest available use of an equivalent quantity of milk in the nonpool plant. (The issue of enlargement of the surplus marketing area was considered in the Assistant Secretary's decision of March 24, 1960.)

This procedure of allocating transferred or diverted milk to the lowest equivalent use facilitates the disposal of milk not needed for bottling in the St. Louis market. However, there are opportunities for abuse, involving the bottling of the transferred milk and its sale for fluid use. It is possible that a supply plant can earn a greater margin by selling milk to a nonpool plant at a price somewhat above the Class II price than by shipping the milk to a St. Louis city plant at the Class I price. If the nonpool plant operator has both manufacturing and bottling operations in his plant, he can assign the transferred milk to Class II while physically using it for his bottling operation. If he is short of bottling quality milk, he would be willing to pay substantially more than the Class II price for St. Louis supplies. At the same time, the St. Louis city plant might have to resort to other source milk for its Class I requirements. Obviously, such practice would reduce the quantity and proportion of producer milk used in Class I, reduce the blend price, and at the same time constitute unfair competition to the dairy farmers supplying the nonpool plant and to regulated competitors of such plant and perhaps deprive the St. Louis market of needed supplies from regular sources.

The major deficiencies in the present transfer provisions can be eliminated by classifying as Class I only such quantities of transferred or diverted milk as are left after assigning to the Class I use at the nonpool plant the regular receipts of Grade A milk from local dairy farmers.

Since it is probable that milk will be transferred to plants which are regulated under the terms of another Federal order, the transfer provisions should permit Class I classification for St. Louis milk only after receipts of milk priced and pooled under the terms of the same order regulating the receiving plant.

It was proposed that the allocation of the St. Louis milk apply to all the nonpool plants operated by any handler within the surplus marketing area rather than to the plant or plants at which the St. Louis milk was physically shipped. This should not be allowed. The allocation process is necessary only because the physical use within a plant of each load of milk cannot be determined.

However, actual use can at least be isolated by plant, and multiple-plant accounting at the nonpool plants is not an appropriate means of accounting for the use made of the nonpool milk.

The transfer provisions should provide for the pro rata allocation of assignable Class I credit in the event milk was sent to a nonpool plant from more than one St. Louis pool plant. In case milk is also received at the nonpool plant from plants subject to other Federal milk marketing orders having similar requirements with respect to transfers to nonpool plants, pro rata allocation between the markets should also apply. In case milk is transferred from the nonpool plant to a second plant(s), the same rules of classification should apply as at the original nonpool plant.

An administrative problem involving transfers refers to the certificate furnished by the operator of a nonpool plant. At present such certificate must be furnished by the 7th day following the month in which the milk is transferred if Class II utilization is claimed. Since the use of milk at the nonpool plant is subject to verification by audit, it appears that the certification of use by the operator of such plant is of little practical value. On the other hand failure to submit a certification on time results in assignment to Class I use. It is concluded that no certification should be required from the nonpool plant operator.

*Cream shipments.* The present order provides Class I classification for cream and all other fluid milk product shipments to points outside a specified area. This provision recognizes that administrative feasibility requires that some limit be set on the area within which the market administrator should send his staff to verify claimed Class II utilization. However, it was demonstrated at the hearing that it is economically feasible to ship cream beyond the specified area for such non-fluid use as the manufacture of ice cream since cream has a much greater value in proportion to weight than milk. The administrative problem of verifying that the cream delivered to locations outside the specified area is utilized as Class II can be obviated by requiring that for such shipments to be classified as Class II the cream must be clearly for manufacturing purposes only. This can be achieved by specifying that such shipments of cream may be classified as Class II if the cream is not labeled as Grade A and hence may be used only for manufacturing purposes. In order to assure that such claimed Class II shipments of cream beyond the specified area are not labeled Grade A the market administrator should be afforded prior notice of such shipments.

*7. Location adjustments.* No further change should be made in the rates of location adjustments to handlers and producers. The suspension action of March 11, 1960, by the Assistant Secretary (25 F.R. 2198) suspended the location adjustments at plants located within 30 miles of City Hall at St. Louis and the suspension became effective April 1, 1960.



Also, effective April 1, the Class I price was established at the 30-40 mile zone with a 16-cent higher price at plants located within 30 miles and with negative location adjustments by 10-mile zones beyond 40 miles. These changes are incorporated in the accompanying order.

At points located more than 40 miles from city hall where pool plants are presently located the rate structure in the present order appropriately reflects the cost of transporting milk to city zone plants in bulk tank trucks. No change in the location adjustments applicable to such plants was proposed at the hearing and none is provided for herein.

8. *Direct-delivery differential.* The notice of hearing contained a proposal that handlers pay a direct delivery differential of 15 cents per hundredweight on all milk received direct from producers at a pool plant located within 50 miles of City Hall in St. Louis. However, in making the payments to producers, diverted milk as well as that actually received at plants within the 50-mile zone would share in the direct delivery differential and the rate of the direct-delivery payment would be reduced proportionately.

The direct delivery differential was supported mainly on the grounds that country supply plant operators commonly add a handling charge to the class price when they sell milk to bottling plants. It must be recognized, however, that in the St. Louis market, handlers have paid a 25-cent per hundredweight premium to farmers who converted from 10-gallon cans to farm bulk tank equipment. Many of the city plants receive only bulk tank milk either from farmers or from country plants and have disposed of any equipment they may have had for the receipt of milk in 10-gallon cans. The country plant handling charge has been only slightly higher than this bulk tank premium. It has averaged about 30 cents in recent months. The country plant handling charge is obviously greatly influenced by the bulk tank premium since both sources of milk are generally available to the city plant operators. Both the bulk tank premium and the country plant charge are, therefore, subject to negotiation depending on changes in marketing conditions.

In the circumstances, the primary reasons advanced in support of direct delivery differentials do not adequately support inclusion in the order of a specific differential on the Class I price for direct-delivery milk.

9. *Unpriced milk.* The St. Louis order exempts several categories of milk plant operation from complete regulation with respect to pricing and pooling. One source of unpriced milk is that distributed on routes within the defined marketing area from plants which do not qualify as pool plants under this order. They may fail to qualify either because sales from the plants within the St. Louis market are less than the stated percentages of receipts or because they are primarily associated with some other Federal order market. The other major category of unpriced milk is that pur-

chased by operators of St. Louis pool plants from plants which do not qualify as supply pool plants. Such purchases are most commonly made in bulk form, although milk in consumer packages would be similarly classified and priced. Such milk also may come from plants which are totally unregulated or are subject to some other Federal order. In either case, this other source milk is allocated to the lowest class of utilization at the St. Louis pool plant. That portion of the other source milk which is allocated to Class I and comes from an unregulated source is subject to compensatory payments at the rate of the difference between the St. Louis Class I and Class II prices in the months of March through July and at the difference between the Class I and blend prices in the months of August through February. No compensatory payments apply on milk received from other Federal sources.

*Other Federal order sources.* The provisions of the St. Louis order with respect to milk priced as Class I under other Federal milk marketing orders should not be changed.

It was proposed that compensatory payments be levied on such milk at the difference between the respective Class I prices, after allowance for location adjustments, in the case of orders employing marketwide pools and at the difference between the St. Louis Class I and Class II prices if the other order utilized individual-handler pools. The difference in rate of payment was based on the premise that orders involving individual-handler pools commonly permit some unpriced milk to be received at regulated plants during the fall months.

The St. Louis market has required substantial volumes of milk to supplement the local supplies of producer milk. The data of record include the volume sold on routes within the area by nonpool plants as well as the supplemental milk, but the greater part of the volume shown in Table 7 of Exhibit 6 represents supplemental milk and most of it was obtained from plants subject to other Federal orders. In the year 1958, the volume of other source milk was equal to 5.8 percent of the volume of producer receipts and in 1959 to 5.4 percent. Imports were heaviest during the period September 1958 through March 1959, ranging from 8.1 to 11.7 percent in these months. Local supplies were more nearly adequate in the fall of 1959, and the volume of other source milk was lower than in the previous fall-winter season, ranging from 4.1 percent in September 1959 to 7.4 percent in December. The order already provides that supplemental milk classified as Class I at St. Louis pool plants is exempt from the compensatory payment provisions of the order only if the milk was priced as Class I under another Federal order. There was no evidence that any of the milk imported from other Federal order markets had been obtained by St. Louis handlers at less than the Class I price under the order of origin plus transportation costs. It should also be noted that the St. Louis Class I price, as amended effective April 1, 1960, is more directly aligned than previously with prices in those

markets from which supplemental supplies have most commonly been obtained. Moreover, the St. Louis order also provides that any plant which becomes identified with the St. Louis market to a greater extent than with another Federal order market becomes subject to this order. In this connection, the standards for a supply pool plant have been clarified herein with respect to defining the receipts and shipments on which the qualifying percentages are based.

These various safeguards which are already provided in the order, together with the changes described and the lack of affirmative evidence regarding possible abuses of the inter-Federal classification and allocation provisions, are the basis for the conclusion that no provisions for inter-Federal compensatory payments should be included in the St. Louis order.

*Unregulated sources.* The proposed change with respect to milk from unregulated sources, whether sold on routes or purchased as supplemental milk, was to assess compensatory payments at the difference between Class I and Class II prices in all months instead of using the present lower rate (difference between Class I and blend) in the 7 months of August through February. This proposal should not be adopted.

The present provisions of the order have adequately protected the integrity of the pricing and pooling arrangement to date. No specific instances were cited to demonstrate that the allocation and compensatory payment provisions had given any purchaser of other source milk a competitive advantage based on his cost of raw product. It is significant in this connection that there was also no proposal for changing the pool plant standards for supply plants or for distributing operations.

With respect to purchases of supplemental milk by pool plant operators, it should be noted that the allocation provisions maintain a substantial incentive for the use of as much local producer milk as is available. It has also been the experience of the market that handlers have sought other Federal sources in preference to unregulated sources of supplemental milk. Apparently, therefore, the more moderate rate of compensatory payment provided during the short production months has not constituted an undue incentive for the purchase of unregulated milk.

In view of these circumstances, it is concluded that there is no need at this time for a change in the provisions with respect to unpriced milk from unregulated plants.

11. *Payments to cooperative associations.* The order already provides, in § 903.80(b), for cooperative associations to collect from handlers the amounts due to their members at the uniform price. This provision should be retained in its present form.

The order should also provide for payments by proprietary handlers, at not less than the applicable class prices, with respect to milk for which a cooperative has acted as the handler. In topic 2 above, it was explained that a cooperative association would be permitted to act as the handler on milk collected from



farms in bulk tank form. With respect to such operations, it was specified that the cooperative association would be the primary handler, would be responsible to the pool and to the producers involved, and should obtain from the purchasing handlers not less than the class prices. A cooperative may also act as the handler on milk received at supply plants operated by the association and should also obtain not less than the class price for such milk.

**12. Administrative provisions.** Proposed amendments which would affect the administrative features of the order include (1) providing for an equivalent price to be determined by the Secretary of Agriculture in case a price quotation specified in the order is not available; (2) charging interest on new classes of overdue accounts; (3) providing additional information to cooperative associations regarding the utilization of milk by handlers in the market; and (4) revising the sections on reports, records and facilities.

**Equivalent price.** If for any reason a price quotation required by this order for computing class prices or for any other purpose is not available in the manner described, the market administrator should use a price determined by the Secretary of Agriculture to be equivalent to the price which is required. Experience has shown that market quotations provided in the order may not be available or may be discontinued. It is concluded that provision for such contingencies should be made by providing for a determination by the Secretary of Agriculture of a price(s) equivalent to such quotations or prices.

**Interest.** The order now provides in § 903.84 for the assessment of interest on overdue payments to the producer settlement fund. It was proposed that a similar charge be assessed on all payments due under the order to handlers, producers, cooperative associations, or the market administrator.

Interest should be applied to all payments due to or from the market administrator at the rate of one-half of one percent per month or any portion thereof that the account is overdue.

This method of charging interest is closely analogous to the common business practice of allowing a discount on payments made for goods within a specified period, charging the full invoice amount for a subsequent period, and accruing interest thereafter. The date for payments to and from the market administrator for the producer settlement fund and to him for the administrative and marketing service accounts are specified in the order. In consideration of this specific notice to interested parties, the interest charge should begin on the first day after the due date. Thereafter it continues to accrue at the rate of one-half of one percent per month, a reasonable rate to compensate for the cost of borrowing money and in accord with business practice.

Interest charges should not be assessed on payments due individual producers or cooperative associations since these are not routinely subject to supervision by the market administrator.

**Data on utilization.** The order now authorizes the market administrator to report to cooperative associations the percentage of each handler's utilization of member producers' milk in Class I and Class II. The association proposed that this information be refined to disclose more precisely each handler's potential need for local supplies of milk. This would involve such corrections as the deletion of out-of-area bulk sales, corrections for interhandler transfers and a correction for purchases of other source milk.

The present computation provides the cooperative associations with essentially the same information as was obtainable from blend price comparisons under individual-handler pooling. The additional information requested raises serious questions regarding the confidentiality of handler reports. In addition, the proposal was not as specific regarding the receipts and sales to be included in the computations as would be necessary to achieve the purpose sought.

In these circumstances, no further information on this subject should be made available by the market administrator to the cooperative associations.

**Reports, records, and facilities.** Section 903.30 should be supplemented to include month-end inventory, as described in topic number 3 above, and to include a "catch-all" clause to refer to items not specifically listed.

Since it is impossible to foresee all types of information the market administrator may need in order to verify reported receipts and utilization, this latter change is intended to make clear that the market administrator has authority to examine books and records not mentioned specifically in the order.

**Miscellaneous.** The Class I price applicable at plants located in or near the City of St. Louis should be the announced Class I price. As the result of the decision on issues numbered 4, 5, 6, and 10, and the suspension of certain language in the location differential sections of the order, the Class I price applicable at plants located more than 30 but less than 40 miles from St. Louis has been the announced Class I price for recent months. In order to facilitate price comparisons, it would be appropriate to return to announcing as the Class I price the price applicable at plants in or near St. Louis. Such change will make no difference in the Class I price level applicable at any plant regardless of its location.

The decision issued July 28, 1960, recommended that the uniform price be announced on the 11th rather than the 10th day of the month. Conforming changes were made in the dates by which other order functions were to be completed. Exceptions pointed out that any gain in administrative efficiency accomplished by the changes would be more than offset, by disruption to long standing market practices. In view of this, no changes should be made in the dates by which certain order functions must be completed.

**Rulings on proposed findings and conclusions.** Briefs and proposed findings and conclusions were filed on behalf of

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

**Rulings on exceptions.** In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

**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 St. Louis, Missouri, Marketing Area," and "Order Amending the Order Regulating the Handling of Milk in the St. Louis, Missouri, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

**It is hereby ordered,** That all of this decision, except the attached marketing



agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Determination of representative period.* The month of October 1960 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the St. Louis, Missouri, marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., this 18th day of January 1960.

CLARENCE L. MILLER,  
Assistant Secretary.

*Order<sup>1</sup> Amending the Order Regulating the Handling of Milk in the St. Louis, Missouri, Marketing Area*

DEFINITIONS

| Sec.   | Act.                                 |
|--------|--------------------------------------|
| 903.1  | Secretary.                           |
| 903.2  | Department.                          |
| 903.3  | Person.                              |
| 903.4  | Cooperative Association.             |
| 903.5  | St. Louis, Missouri, marketing area. |
| 903.6  | Producer.                            |
| 903.7  | City plant.                          |
| 903.8  | Country plant.                       |
| 903.9  | Pool plant.                          |
| 903.10 | Nonpool plant.                       |
| 903.11 | Handler.                             |
| 903.12 | Producer-handler.                    |
| 903.13 | Producer milk.                       |
| 903.14 | Approved milk.                       |
| 903.15 | Other source milk.                   |
| 903.16 | Dairy farmer for other markets.      |
| 903.17 | Route.                               |
| 903.18 | Chicago butter price.                |

MARKET ADMINISTRATOR

|        |              |
|--------|--------------|
| 903.20 | Designation. |
| 903.21 | Powers.      |
| 903.22 | Duties.      |

REPORTS, RECORDS, AND FACILITIES

|        |                                          |
|--------|------------------------------------------|
| 903.30 | Reports of receipts and utilization.     |
| 903.31 | Other reports.                           |
| 903.32 | Reports of milk received from producers. |
| 903.33 | Reports to cooperative associations.     |
| 903.34 | Reports of transportation rates.         |
| 903.35 | Records and facilities.                  |
| 903.36 | Retention of records.                    |

CLASSIFICATION OF MILK

|        |                                                          |
|--------|----------------------------------------------------------|
| 903.40 | Basis of classification.                                 |
| 903.41 | Classes of utilization.                                  |
| 903.42 | Responsibility of handlers and reclassification of milk. |
| 903.43 | Transfers.                                               |
| 903.44 | Computation of skim milk and butterfat in each class.    |
| 903.45 | Allocation of skim milk and butterfat classified.        |
| 903.46 | Determination of producer milk in each class.            |
| 903.47 | Shrinkage.                                               |

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

MINIMUM PRICE

| Sec.   |                                      |
|--------|--------------------------------------|
| 903.50 | Basic formula price.                 |
| 903.51 | Class prices.                        |
| 903.52 | Location differentials to handlers.  |
| 903.53 | Butterfat differentials to handlers. |
| 903.54 | Use of equivalent price.             |
| 903.55 | Rate of payment on unpriced milk.    |

APPLICATION OF PROVISION

|        |                                         |
|--------|-----------------------------------------|
| 903.60 | Producer-handlers.                      |
| 903.61 | Plants subject to other Federal orders. |
| 903.62 | Handlers operating nonpool plants.      |

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

|        |                                                |
|--------|------------------------------------------------|
| 903.70 | Computation of the obligation of each handler. |
| 903.71 | Computation of the uniform price.              |
| 903.72 | Notification of handlers.                      |

PAYMENTS

|        |                                               |
|--------|-----------------------------------------------|
| 903.80 | Time and method of payment for producer milk. |
| 903.81 | Butterfat differential to producers.          |
| 903.82 | Location differentials to producers.          |
| 903.83 | Producer-settlement fund.                     |
| 903.84 | Payments to the producer-settlement fund.     |
| 903.85 | Payments out of the producer-settlement fund. |
| 903.86 | Adjustment of accounts.                       |
| 903.87 | Expense of administration.                    |
| 903.88 | Marketing services.                           |
| 903.89 | Adjustment of overdue accounts.               |

EFFECTIVE TIME, SUSPENSION, AND TERMINATION

|        |                                              |
|--------|----------------------------------------------|
| 903.90 | Effective time.                              |
| 903.91 | Suspension and termination.                  |
| 903.92 | Continuing power and duty.                   |
| 903.93 | Liquidation after suspension or termination. |

MISCELLANEOUS PROVISIONS

|         |                                |
|---------|--------------------------------|
| 903.100 | Unfair methods of competition. |
| 903.101 | Separability of provisions.    |
| 903.102 | Agents.                        |
| 903.103 | Termination of obligations.    |

AUTHORITY: §§ 903.0 to 903.103 issued under Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 903.0 Findings and determinations.

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

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

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense 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 expense, 2½ cents per hundredweight or such amount not to exceed 2½ cents per hundredweight as the Secretary may prescribe with respect to skim milk and butterfat contained in (a) producer milk, (b) Grade A other source milk (except other source milk which was subject to another order issued pursuant to the Act) which is allocated to Class I, or (c) Class I milk distributed in the marketing area from a nonpool plant.

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

DEFINITION

§ 903.1 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.).

§ 903.2 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.

§ 903.3 Department.

"Department" means the United States Department of Agriculture.

§ 903.4 Person.

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



### § 903.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(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 be engaged in making collective sales or marketing milk or its products for its members.

### § 903.6 St. Louis, Missouri, marketing area.

"St. Louis, Missouri, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the cities of St. Louis and St. Charles and the territory within St. Louis County, all in Missouri; and the territory within Scott Military Reservation, and East St. Louis, Centreville, Canton, and Stites Townships, and the City of Belleville, all in St. Clair County, Illinois.

### § 903.7 Producer.

"Producer" means any person, except a producer-handler or a dairy farmer for other markets, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(a) Delivered from a farm to a pool plant, or

(b) Diverted to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the Act;

(1) By a cooperative association in its capacity as a handler pursuant to § 903.12(b) any number of days during the months of March through July or for a period not in excess of 16 days' production during each of the months of August through February; or

(2) By a handler who operates a pool plant any number of days during the months of March through July: *Provided*, That milk so diverted pursuant to subparagraphs (1) and (2) of this paragraph shall be deemed to have been received by the diverting handler at the plant from which diverted.

### § 903.8 City plant.

"City plant" means a plant in which milk is processed and packaged and from which milk, skim milk, or cream is disposed of during the month as Class I milk in the marketing area on routes.

### § 903.9 Country plant.

"Country plant" means a plant from which approved milk is supplied during the month to a plant qualified pursuant to § 903.10(a).

### § 903.10 Pool plant.

"Pool plant" means:

(a) A city plant from which not less than 50 percent of the receipts of approved milk in the form of fluid whole milk is distributed during the month as Class I milk on routes, and from which not less than 25 percent of such receipts are distributed as Class I milk during the month in the marketing area on routes: *Provided*, That a plant which qualifies as a pool plant pursuant to this

paragraph during any month shall be a pool plant during the following month; or

(b) Subject to subparagraphs (1), (2), and (3) of this paragraph a country plant from which no less than 50 percent of receipts during the month of approved milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 903.12(c) is shipped to city plants which are pool plants pursuant to paragraph (a) of this section;

(1) If the pooled city plants to which milk is shipped from the country plant have received other source approved whole milk during the month, the applicable pooling shipments for the country plant shall be the lesser of:

(i) Fifty percent of its receipts of approved milk from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 903.12(c) plus the hundredweight of approved other source whole milk received at the city plant prorated to each country plant which ships approved milk to such city plants and which meets the 50 percent shipping requirement; or

(ii) Seventy-five percent of its receipts of approved milk from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 903.12(c);

(2) A country plant which qualifies as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August unless the operator of such plant submits a written request to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following receipt of such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments;

(3) All country plants which have been pool plants during the 12 preceding months and which are operated by one handler or for which one handler is responsible for the movement of milk to city plants under a marketing arrangement certified to the market administrator by the operators of such plants may be considered as a unit for determining pool status upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration should apply. A plant which is a pool plant as part of a system pursuant to this subparagraph may be a nonpool plant whenever the operator of such plant submits a written request to the market administrator that such plant not be a pool plant, such nonpool status to be effective until the plant qualifies as a pool plant on the basis of shipments.

### § 903.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant.

### § 903.12 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a city plant or a country plant;

(b) Any cooperative association with respect to milk from producers diverted for its account from a pool plant to a nonpool plant; and

(c) Any cooperative association with respect to the milk of its members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association, if the cooperative association, prior to assuming the function as the handler, furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered, that it will be the handler for the milk. The written notice shall specify the day on which and the period for which the cooperative association shall assume the function of handler. Milk so delivered shall be deemed to have been received by the cooperative association at the pool plant to which it is delivered.

### § 903.13 Producer-handler.

"Producer-handler" means any person who operates a city plant and who processes milk from his own farm production, distributing all or a portion of such milk within the marketing area as Class I milk, but who receives no other source milk or milk from other dairy farmers.

### § 903.14 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk (a) received at a pool plant from producers, or from a cooperative association in its capacity as a handler pursuant to § 903.12(c) or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 903.7.

### § 903.15 Approved milk.

"Approved milk" means any skim milk or butterfat contained in milk, skim milk, or cream which is approved by a duly constituted health authority for distribution as Class I milk.

### § 903.16 Other source milk.

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

(a) Receipts during the month in the form of products designated as Class I milk pursuant to § 903.41(a), except (1) such products approved by a duly constituted health authority for distribution as Class I milk which are received from pool plants, or (2) producer milk; and

(b) Products designated as Class II milk pursuant to § 903.41(b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

### § 903.17 Dairy farmer for other markets.

"Dairy farmer for other markets" means any dairy farmer whose milk is received at a pool plant during any of the months of March through August from a farm from which approved milk which was not producer milk was received by the handler, an affiliate of the handler or any person who controls or is controlled by the handler during the preceding months of September through February.



**§ 903.18 Route.**

"Route" means disposition of Class I products (including disposition through a vendor and sales from a plant or plant store) to a wholesale or retail stop other than to a pool or nonpool plant.

**§ 903.19 Chicago butter price.**

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

**MARKET ADMINISTRATOR****§ 903.20 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 by the Secretary.

**§ 903.21 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.

**§ 903.22 Duties.**

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

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

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

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

- (d) Pay, out of the funds received pursuant to § 903.87, the cost of his bond and of the bonds of his employees, his own compensation and all other expenses (except those incurred under § 903.88) 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 submit such books and records to examination by the Secretary as requested;

- (f) Furnish such information and such verified reports as the Secretary may request;

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

- (h) Publicly disclose to handlers and producers, at his discretion, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 903.30 through 903.33 or payments pursuant to §§ 903.80 through 903.87;

- (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;

- (j) Publicly announce on or before:

- (1) The 5th day of each month, the minimum price for Class I milk, pursuant to § 903.51(a), and the Class I butterfat differential, pursuant to § 903.53(a), both for the current month; and the minimum price for Class II milk, pursuant to § 903.51(b), and the Class II butterfat differential, pursuant to § 903.53(b), both for the preceding month;
- (2) The 10th day after the end of each month, the uniform price, pursuant to § 903.71, and the producer butterfat differential, pursuant to § 903.81; and

- (k) On or before the 10th day after the end of each month, report to each cooperative association which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

**REPORTS, RECORDS, AND FACILITIES****§ 903.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month, each handler for each of his pool plants, and each association in its capacity as a handler pursuant to § 903.12 (b) and (c) shall report 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 (1) producer milk, (2) milk in the form of Class I products received from pool plants and (3) other source milk;

- (b) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 903.7;

- (c) The quantities of skim milk and butterfat contained in inventories of Class I products on hand at the beginning and end of the month; and

- (d) The utilization of all skim milk and butterfat required to be reported pursuant to paragraphs (a) and (b) of this section, including a separate state-

ment of the disposition of Class I milk outside the marketing area;

- (e) The name and address of each producer from whom milk was not received during the previous month, and the date of which milk was first received from such producer;

- (f) The name and address of each producer who discontinues deliveries of milk, and the date on which milk was last received from such producer;

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

**§ 903.31 Other reports.**

- (a) On or before the 7th day after the end of the month, each handler, except a producer-handler, who operates a nonpool plant from which Class I milk is disposed of during the month in the marketing area on routes shall report to the market administrator the quantities of skim milk and butterfat so disposed of, and shall make such other reports with respect to receipts of milk and utilization thereof as are requested by the market administrator.

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

**§ 903.32 Reports of milk received from producers.**

- (a) On or before the 25th day of each month, each handler shall report to the market administrator, on forms approved by the market administrator his producer payroll, which shall show the total pounds of milk received from each producer during the first 15 days of such month;

- (b) On or before the 20th day after the end of each month each handler shall report to the market administrator for such month on forms approved by the market administrator, his producer payroll, which shall show for each producer from whom milk was received:

- (1) The total pounds and butterfat content of milk received from such producer;

- (2) The price and the total amount paid for milk received from such producer, together with the amount and nature of any deduction; and

- (3) The amount and nature of payments made pursuant to §§ 903.80 and 903.86.

**§ 903.33 Reports to cooperative associations.**

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 903.80 (b) shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

- (a) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month;

- (b) On or before the 7th day of the following month:

- (1) The pounds of milk received each day, and the total for the month, to-



gether with the butterfat content of such milk;

(2) The amount or rate and nature of deductions.

#### § 903.34 Reports of transportation rates.

On or before the 10th day after a request is received from the market administrator, each handler who makes deductions from payments to producers for hauling shall submit a schedule of transportation rates which are charged and paid for such transportation of milk from the farm of the producer to such handler's plant(s). Any changes made in this schedule of transportation rates and the effective dates thereof shall be reported to the market administrator within 10 days.

#### § 903.35 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as the market administrator deems necessary to verify or establish the correct data which are required to be reported pursuant to §§ 903.30 through 903.34 and the payments required to be made pursuant to §§ 903.80 through 903.89.

#### § 903.36 Retention of records.

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

#### CLASSIFICATION OF MILK

#### § 903.40 Basis of classification.

All skim milk and butterfat which is required to be reported pursuant to § 903.30 shall be classified by the market administrator pursuant to the provisions of §§ 903.41 through 903.47.

#### § 903.41 Classes of utilization.

Subject to the conditions set forth in §§ 903.42 and 903.43, the classes of utilization shall be as follows:

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

(1) Disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), concentrated milk, fortified milk or skim milk, reconstituted milk or skim milk, cream (sweet or sour) and mixtures of milk, skim milk or cream (except frozen dessert mixes, eggnog, aerated cream, ster-

ilized products in hermetically sealed containers, and cultured sour mixtures to which cheese or another food substance other than a milk product has been added and which contain butterfat equal to not more than 15 percent of the finished product); 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) Accounted for and used to produce any product other than those specified as Class I in paragraph (a)(1) of this section:

(2) In inventory of products designated as Class I milk in paragraph (a) of this section on hand at the end of the month:

(3) In actual shrinkage of skim milk and butterfat, respectively, not to exceed the following:

(i) Two percent of that received from dairy farmers excluding that which is diverted pursuant to § 903.7; plus

(ii) One and one-half percent of that contained in milk received in bulk tank lots excluding that contained in milk received from dairy farmers; less

(iii) One and one-half percent of that contained in milk disposed of in bulk tank lots to other plants excluding milk diverted pursuant to § 903.7;

*Provided*, That shrinkage of skim milk and butterfat not in excess of the percentages specified herein shall be assigned pro rata pursuant to this subparagraph to skim milk and butterfat, respectively, in approved milk received from producers and from other pool plants and in other source milk.

#### § 903.42 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat shall be classified in another class.

(b) Any skim milk or butterfat classified in one class shall be reclassified if used or reused by such handler or by another handler (except a producer-handler) in another class.

#### § 903.43 Transfers.

Skim milk and butterfat transferred or diverted in bulk form as any product designated in § 903.41(a) from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 903.12 (b) and (c) shall be classified as follows:

(a) As Class I milk if transferred to a pool plant unless:

(1) The transferee and transferor handlers claim Class II utilization in their reports submitted pursuant to § 903.30;

(2) The transferee plant has utilization in Class II of an equivalent amount of skim milk and butterfat, respectively, after the subtractions pursuant to § 903.45(a) (1), (2), (3), and (4) and the corresponding subtractions pursuant to § 903.45(b):

*Provided*, That if the transferor plant receives other source milk, the classifica-

tion of the skim milk and butterfat transferred results in the highest valued class utilization to milk of producers; and

(3) The transfer is by a cooperative association in which case the skim milk and butterfat so transferred shall be allocated pro rata to each class in the proportion remaining after the subtraction pursuant to § 903.45(a) (7) and the corresponding step of § 903.45(b).

(b) As Class I milk if moved to the plant of a producer-handler.

(c) As Class I milk (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (e) of this section) if moved to a nonpool plant which is not the plant of a producer-handler unless:

(1) The transferee plant is located within 110 airline miles from the City Hall in St. Louis, Missouri, or in the State of Missouri south of the Missouri River or in Fulton County, Arkansas;

(2) The transferor handler claims classification of such skim milk and butterfat in Class II in his report submitted pursuant to § 903.30;

(3) The operator of the transferee plant maintains books and records showing the utilization of all skim milk and butterfat received in any form at such plant, which are made available if requested by the market administrator for the purpose of verification;

(d) As Class I milk (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (e) of this section) if moved to a nonpool plant to the extent of the pro rata quantity of skim milk and butterfat pursuant to the following computations if the skim milk and butterfat, respectively, is not classified as Class I milk pursuant to paragraph (c) of this section:

(i) From the total skim milk and butterfat, respectively, disposed of from such nonpool plant and classified as Class I milk pursuant to the classification provisions of this part applied to such nonpool plant, subtract the skim milk and butterfat received at such plant directly from dairy farmers who are approved to supply Grade A milk and who the market administrator determines constitute the regular source of supply for such nonpool plant (if the nonpool plant is a pool plant pursuant to the terms of another Federal order also subtract Class I transfers to that plant which are priced and pooled pursuant to the terms of the same Federal order);

(ii) From the remaining amount of skim milk and butterfat, respectively, classified as Class I milk at such nonpool plant subtract any Class I milk received in consumer-type packages from a plant fully regulated by this or another Federal order issued pursuant to the Act;

(iii) Prorate the remaining Class I milk to bulk receipts at the nonpool plant which are allocated to Class I pursuant to this and other Federal milk orders issued pursuant to the Act;

(iv) The quantity of such Class I prorated to receipts from pool plants subject to this part shall be further prorated to such plants in accordance with the quantities claimed to be moved to such nonpool plant as Class II milk; and



(v) If any skim milk or butterfat is disposed of from the first receiving nonpool plant in the form of bulk milk, skim milk, or cream to another nonpool plant(s), the market administrator shall determine in the same manner the classification of such skim milk and butterfat at the nonpool plant where actually used or processed when necessary to support a claim of Class II classification.

(e) As Class II milk if moved in fluid form as cream to a nonpool plant which is not located within the area specified in paragraph (c)(1) of this section; if the following conditions are met:

(1) The transferor-handler establishes that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

#### § 903.44 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 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler, or in the case of a cooperative association for that milk received pursuant to § 903.12(c) or diverted to a nonpool plant pursuant to § 903.12(b): *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

#### § 903.45 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining in each class after making the following computations, with respect to each handler shall be the pounds of skim milk in such class allocated to the producer milk received by each handler.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in approved milk from producers and other pool plants classified as Class II milk pursuant to § 903.41(b)(3);

(2) Subtract from the pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which is not classified and priced as Class I under the terms of another order issued pursuant to the Act (with that which is subject to another order but not classified and priced as Class I subtracted last);

(3) Subtract from the pounds of skim milk remaining in Class II milk an amount equal to the lesser of such remainder or the product obtained by multiplying by 0.05 the pounds of skim milk contained in receipts of producer milk and receipts from plants qualified pursuant to § 903.10(k) which were producer milk;

(4) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which is classified and priced as Class I under the terms of another order issued pursuant to the Act;

(5) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (3) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk contained in inventory of products designated as Class I in § 903.41(a) on hand at the beginning of the month;

(7) 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; and

(8) Subtract the pounds of skim milk in items designated in Class I milk pursuant to § 903.41(a) received from other pool plants and from cooperative associations which are the handlers for the milk pursuant to § 903.12(a) from the pounds of skim milk in the respective classes in which such skim milk is classified pursuant to § 903.43(a); and

(9) 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 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.

#### § 903.46 Determination of producer milk in each class.

For each class, add the pounds of skim milk and the pounds of butterfat allocated to producer milk, pursuant to § 903.45, and determine the percentage of butterfat in the producer milk allocated to each class.

#### MINIMUM PRICES

##### § 903.50 Basic formula price.

The basic formula price for each month to be used in determining the price set forth in § 903.51(b) shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest cent.

(a) Determine the average of the basic, or field, prices 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 the Department of Agriculture:

#### CONCERNS AND LOCATIONS

Borden Co., Orfordville, Wis.  
Borden Co., New London, Wis.  
Carnation Co., Ava, Mo.  
Carnation Co., Seymour, Mo.  
Carnation Co., Sparta, Mich.  
Carnation Co., Richland Center, Wis.  
Carnation Co., Oconomowoc, Wis.

Litchfield Creamery Co., Litchfield, Ill.  
Pet Milk Co., Greenville, Ill.  
Pet Milk Co., Wayland, Mich.  
Pet Milk Co., Coopersville, Mich.  
Pet Milk Co., New Glarus, Wis.  
Pet Milk Co., Belleville, Wis.  
White House Milk Co., Manitowoc, Wis.  
White House Milk Co., West Bend, Wis.

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

(1) Multiply the Chicago butter price by 3.5, add 20 percent thereof:

(2) From the weighted average of 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, subtract 5½ cents and multiply by 7.0.

#### § 903.51 Class prices.

Subject to the provisions of §§ 903.52 and 903.53, the class prices per hundredweight shall be as follows:

(a) *Class I milk price.* The Class I price shall be equal to the price for Class I milk established for the same month under Federal Order No. 41 regulating the handling of milk in the Chicago, Illinois, marketing area, plus 50 cents, and plus or minus the amounts provided in subparagraphs (1) and (2) of this paragraph:

(1) If the utilization percentage calculated pursuant to subparagraph (2) of this paragraph exceeds 130 subtract, or if it is less than 130 add, an amount calculated by multiplying the difference between such percentage and 130 by 2 cents;

(2) For each month calculate a utilization percentage by dividing the net pounds of Class I milk disposed of from all pool plants plus the Class I milk disposed of in the marketing area from nonpool plants, all for the 12-month period ending with the beginning of the preceding month, into the total pounds of producer milk during such 12-month period; multiplying by 100; adding or subtracting, respectively, any amount by which such result is greater or less than a comparable 12 month utilization percentage as computed for the third month preceding; and rounding the resultant figure to the nearest whole percent.

(b) *Class II milk price.* For the months of August through February, the Class II milk price shall be the basic formula price. For all other months, the Class II price shall be an amount computed as follows:

(1) Multiply by 4.24 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) of 93-score bulk creamery butter per pound at Chicago, as reported by the Department during the month: *Provided*, That if no price is reported for 93-score butter, the highest of the prices reported for 92-score butter for that day shall be used in lieu thereof;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray



process nonfat dry milk solids, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 81 cents.

**§ 903.52 Location differentials to handlers.**

For producer milk which is received at a pool plant located more than 30 airline miles from the City Hall in St. Louis, Missouri, which is classified as Class I milk, the price specified in § 903.51(a) shall be reduced at the rate set forth in the following schedule:

| Distance (miles):                                              | Rate per hundredweight (cents) |
|----------------------------------------------------------------|--------------------------------|
| More than 30 but not more than 40 miles                        | 16                             |
| For each additional 10 miles or fraction thereof an additional | 1                              |

*Provided*, That for the purpose of calculating such location differential with respect to approved milk transferred between pool plants, the Class II approved milk which is producer milk received from pool plants and producers remaining in the transferee plant (except skim milk or butterfat in such plant which was subtracted pursuant to § 903.45(a) (1) and (b)) after deducting therefrom the amount of such milk or an amount equivalent to 0.05 times the producer milk at such plant, whichever is less, shall be assigned to approved milk from other plants in sequence according to the location differential applicable at each plant from which approved milk was received, beginning with the plant having the largest differential, and then to producer milk: *And provided further*, That any approved milk transferred between city plants as Class II milk, which is to be assigned to receipts of approved milk from other plants pursuant to this section, shall be assigned to approved milk received from such other plants by either city plant so as to yield the greatest return to producers.

**§ 903.53 Butterfat differentials to handlers.**

If the average butterfat test of Class I milk or Class II milk, as calculated pursuant to § 903.46, is more or less than 3.5 percent, there shall be added to, or subtracted from as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential calculated for each class of utilization as follows:

(a) *Class I milk*. Multiply the Chicago butter price for the preceding month by 0.120 and round to the nearest one-tenth cent.

(b) *Class II milk*. Multiply the Chicago butter price for the month by 0.115 and round to the nearest one-tenth cent.

**§ 903.54 Use of equivalent prices.**

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

**§ 903.55 Rate of payment on unpriced milk.**

The rate of payment per hundredweight on unpriced Class I milk 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 applicable Class I price, adjusted by the Class I butterfat differential and the Class I location differential at the location of the plant from which such milk is supplied.

(b) For the months of August through February, subtract the uniform price, adjusted by the producer butterfat and location differentials, from the Class I price adjusted by the Class I butterfat differential and the Class I location differentials at the location of the plant from which such milk is supplied.

**APPLICATION OF PROVISIONS**

**§ 903.60 Producer-handlers.**

Sections 903.40 through 903.47, 903.50 through 903.55, 903.70 through 903.72, and 903.80 through 903.89 shall not apply to a producer-handler.

**§ 903.61 Plants subject to other Federal orders.**

The provisions of this part shall not apply to a plant specified in paragraphs (a) or (b) of this section except as follows: 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 city plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualifies as a pool plant pursuant to § 903.10 (a) and the Secretary determines that more Class I milk is disposed of from such plant in the St. Louis marketing area on routes than in the marketing area regulated pursuant to such other order.

(b) Any country plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualifies as a pool plant pursuant to § 903.10 (b) (2).

**§ 903.62 Handlers operating nonpool plants.**

On or before the 15th day after the end of each month, each handler, except a producer-handler, operating a nonpool plant shall pay to the market administrator for deposit into the producer-set-

tlement fund the amount obtained by multiplying the hundredweight of skim milk and butterfat disposed of from such nonpool plant as Class I milk in the marketing area on routes by the rate of payment of unpriced milk pursuant to § 903.55.

**DETERMINATION OF UNIFORM PRICE TO PRODUCERS**

**§ 903.70 Computation of the obligation of 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 § 903.46 by the applicable class price, total the resulting amounts, and add any amount necessary to reflect adjustments in location differential allowance required pursuant to § 903.52;

(b) Add an amount computed as follows: Multiply the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 903.45 (a) (2) and (b) by the rate of payment on unpriced milk pursuant to § 903.55 adjusted by the location differential applicable at the nearest plant(s) from which an equivalent amount of other source milk was received;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class, pursuant to § 903.45 (a) (9) and (b), by the applicable class price; and

(d) Add the amounts computed under subparagraphs (1) and (2) of this paragraph.

(1) Multiply the difference between the applicable Class II price for the preceding month and the applicable Class I price for the month by the pounds of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 903.45(a) (6) and the corresponding step of § 903.45(b) for the preceding month, or the pounds of skim milk and butterfat subtracted from Class I milk pursuant to § 903.45(a) (6) and the corresponding step of § 903.45(b) for the month, whichever is less:

(2) Multiply the rate of payment on unpriced milk pursuant to § 903.55 by the pounds of Class I milk subtracted from Class I pursuant to § 903.45(a) (6) and the corresponding step of § 903.45 (b), which are in excess of the sum of (i) the pounds of skim milk and butterfat respectively on which a payment is applicable pursuant to subparagraph (1) of this paragraph, and (ii) the pounds of skim milk and butterfat assigned in the preceding month to Class II pursuant to § 903.45(a) (4) and the corresponding step of § 903.45(b).

**§ 903.71 Computation of the uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers at plants located not more than 30 airline miles from the City Hall in St. Louis, Missouri, as follows:



(a) Combine into one total the values computed pursuant to § 903.70 for all handlers who made the reports prescribed in § 903.30 and who are not in default of payments pursuant to § 903.84;

(b) For each of the months of April, May, June, and July subtract an amount equal to 10 cents per hundredweight on the total amount of producer milk included in these computations, which amount is to be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (c) of this section;

(c) For each of the months of October, November, and December, add one-third of the total amount subtracted pursuant to paragraph (b) of this section;

(d) Add an amount equivalent to the total deductions made pursuant to § 903.82;

(e) Subtract if the weighted average butterfat content of milk received from producers is more than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the producer butterfat differential by the difference between 3.5 and the average butterfat content of producer milk, and multiplying the resulting figure by the total hundredweight of such milk;

(f) Add an amount equivalent to one-half of the unobligated balance in the producer-settlement fund;

(g) Divide the resulting amount by the total hundredweight of producer milk; and

(h) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (g) of this section.

#### § 903.72 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 and value of his producer milk in each class and the total thereof;

(b) The uniform price computed pursuant to § 903.71 and the producer butterfat differential computed to § 903.81; and

(c) The amounts to be paid by such handler pursuant to §§ 903.84, 903.87, and 903.88, and the amount due such handler pursuant to § 903.85.

#### § 903.80 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 for milk received during the month as follows:

(1) On or before the last day of each month to each such 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 subparagraph;

(2) On or before the 17th day of the following month, an amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 903.88, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized by such producer: *Provided*, That if by such date such handler has not received full payment pursuant to § 903.85 from the market administrator 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 the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which has so requested any handler in writing, such handler shall make payment to the cooperative association for milk received during the month from the producer members of such association as follows:

(1) On or 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 during the first 15 days of the month from producer members who did not discontinue delivering milk to such handler before the 25th day of the month, less proper deductions authorized in writing by such cooperative association to be made from payments due pursuant to this subparagraph;

(2) On or before the 14th day of the following month, an amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer members during the month, subject to the following adjustments: (i) Less payments made such cooperative association pursuant to subparagraph (1) of this paragraph, (ii) plus or minus adjustments for errors made in previous payments to such cooperative association, and (iii) less proper deductions authorized in writing by such cooperative association: *Provided*, That if by such date such handler has not received full payment pursuant to § 903.85 from the market administrator for such month, he may reduce pro rata his payments to the cooperative association by not more than the amount of such underpayment. Payments to the cooperative association 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.

(c) On or before the 14th day of the following month, each handler shall pay a cooperative association for milk received by him during the month from

such association for which the association is the handler not less than the minimum prices for milk in each class subject to the applicable location and butterfat differentials.

#### § 903.81 Butterfat differential to producers.

In making payments for milk received from producers pursuant to § 903.80, the uniform price shall be adjusted by adding or subtracting for each one-tenth of 1 percent by which the average butterfat content of such milk is more or less, respectively, than 3.5 percent, an amount equal to the butterfat differential computed pursuant to § 903.53(b).

#### § 903.82 Location differentials to producers.

In making payments for milk received from producers at a pool plant located more than 30 airline miles from the City Hall in St. Louis, Missouri, the uniform price computed to § 903.71 shall be reduced at the rate set forth in the following schedule:

| Distance (miles):                                                   | Rate per hundredweight (cents) |
|---------------------------------------------------------------------|--------------------------------|
| More than 30 but not more than 40 miles.....                        | 16                             |
| For each additional 10 miles or fraction thereof an additional..... | 1                              |

#### § 903.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund to be known as the "producer-settlement fund", into which he shall deposit all payments made by handlers pursuant to §§ 903.62, 903.84, and 903.86, and out of which he shall make payments due handlers pursuant to §§ 903.71, 903.85, and 903.86.

#### § 903.84 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 the amount by which the value of milk for such handler, pursuant to § 903.70 exceeds the obligations of such handler for milk received from producers, pursuant to § 903.80.

#### § 903.85 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 the amount by which the obligation of such handler for milk received from producers, pursuant to § 903.80 exceeds the value of milk for such handler calculated pursuant to § 903.70, less any unpaid balances due the market administrator from such handler pursuant to §§ 903.84, 903.86, 903.87, or 903.88: *Provided*, That if the unobligated balance in the producer-settlement fund is insufficient to make full payment to all handlers entitled to payment pursuant to this paragraph, the market administrator shall reduce such payments at a uniform rate and shall complete such payments as soon as the appropriate funds are available.



**§ 903.86 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses that money is due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall make payments to such handler of any amounts due the handler, or shall notify the handler of any amount due the market administrator or producers or cooperative associations, and such payments shall be made on or before the next date for making payments as set forth in the provisions relating to the payments which were in error.

**§ 903.87 Expense of administration.**

As his pro rata share of the expense of the administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of each month for such month 2½ cents, or such lesser amount as the Secretary may prescribe, for each hundredweight of skim milk and butterfat contained in (a) producer milk, (b) Grade A other source milk (except other source milk which was subject to another order issued pursuant to the Act) which is allocated to Class I, or (c) Class I milk distributed in the marketing area from a nonpool plant.

**§ 903.88 Marketing services.**

(a) *Deduction of marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 903.80, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such monies shall be used by the market administrator to verify weights, samples and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler, in lieu of the deductions specified in paragraph (a) of this section, shall:

(1) If the cooperative association is not receiving payment for its producer members pursuant to § 903.80(b), make the deductions from the payments made pursuant to § 903.80(a)(2), which are authorized by its producer members, and pay any money so deducted to the cooperative association on or before the 15th day after the end of the month in which the milk was received from producers; or

(2) If the cooperative association is receiving payment for its producer mem-

bers pursuant to § 903.80(b), make no marketing service deductions.

**§ 903.89 Adjustment of overdue accounts.**

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 903.84, 903.85, 903.87, or 903.88 shall be increased one-half of one percent for each month or portion thereof that such payment is overdue.

**EFFECTIVE TIME, SUSPENSION, AND TERMINATION****§ 903.90 Effective time.**

The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 903.91.

**§ 903.91 Suspension and termination.**

Any or all provisions of this part, or any amendment to this part, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

**§ 903.92 Continuing power and duty.**

(a) If, upon the suspension or termination pursuant to § 903.91, there are any obligations rising 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, (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 to this part.

**§ 903.93 Liquidation after suspension or termination.**

Upon the suspension or termination pursuant to § 903.91, 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 any funds which are unpaid and 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****§ 903.100 Unfair methods of competition.**

Each handler shall refrain from acts which constitute unfair methods of competition by way of indulging in any practices with respect to the transportation of milk for, and the supplying of goods and services to, producers from whom milk is received, which tend to defeat the purpose and intent of the terms and provisions of this part.

**§ 903.101 Separability of provisions.**

If any provision of this part, or its application to any person or circumstance 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.

**§ 903.102 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.

**§ 903.103 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.

(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 under such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of



such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received in 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.

[F.R. Doc. 61-604; Filed, Jan. 23, 1961; 8:51 a.m.]

## [ 7 CFR Part 999 ]

[Docket No. AO-204-A12]

### MILK IN WORCESTER, MASSACHUSETTS, MARKETING AREA

#### Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Worcester, Massachusetts, on December 1, 1960 pursuant to notice thereof issued on November 21, 1960 (25 F.R. 11174).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on December 28, 1960 (25 F.R. 14043; F.R. Doc. 60-12204) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

1. Extension of the 46-cent nearby farm location differential area.
2. Need for emergency action in effecting the proposed order changes.

**Findings and conclusions.** The following findings and conclusions on the material issues are based on evidence pre-

sented at the hearing and the record thereof:

1. *Extension of the 46-cent nearby farm location differential area.* That portion of Connecticut east of the Connecticut River, the State of Rhode Island, and the Massachusetts counties of Bristol and Plymouth should be included in the area to which the 46-cent nearby farm location differential is applicable under the Worcester order.

The present area to which the differential applies consists of six Massachusetts counties and seven towns in New Hampshire and Vermont. Similar nearby differentials are effective under the other New England Federal orders although they are applicable to different (but to some degree overlapping) areas. Areas within which nearby differentials are paid have been adopted in all the New England milk orders (the Boston order differential has been in effect for more than 20 years) in recognition of the patterns of supply and price in the respective markets which had been customary before regulation.

The marketing area of the Worcester order was extended to 17 additional towns on September 1, 1960 and the pool provisions under the New England orders were changed to provide that a plant distributing in two or more Federally-regulated markets should be pooled in the market where the greatest proportion of sales from such plant are made. At least three handlers receiving milk from dairy farms located in Connecticut became regulated pool handlers under the Worcester order as a result of the amendments. Although the dairy farmers delivering to the three handlers have farms located in an area of both the Southeastern New England and Connecticut milksheds where a 46-cent nearby differential has been paid, they are not eligible to receive the similar differential provided under the Worcester order for which other nearby producers are eligible.

Eastern Connecticut is relatively rural in nature and serves as a natural production area for the southern portion of the Worcester marketing area comprised of the towns of Southbridge, Dudley, Webster and the surrounding territory. Producers and handlers have had longstanding arrangements for the disposition of milk produced in this portion of the Worcester market supply area which are now threatened to be disrupted unless the nearby area is extended. While the affected producers could in most cases deliver their milk to pool plants under a Connecticut or Southeastern New England order and continue to receive a nearby differential, this could result in uneconomic and inefficient transportation and handling of milk.

One Worcester handler proposed that the Connecticut towns of Thompson, Union and Woodstock be added to the nearby area since this area represents his source of supply in Connecticut. Another handler with a multiple plant operation has producers with farms widely dispersed throughout that part of Connecticut east of the Connecticut River. At the expense of efficient transportation and handling, this handler

shifted approximately 400 cans (about 35,000 pounds) per day of Connecticut-produced milk which formerly was received directly at his Dudley, Massachusetts, plant to a receiving plant at Putnam, Connecticut, regulated under another Federal order, in order that the producers involved could continue to receive a nearby differential of 46 cents per hundredweight in the manner of other milk producers with farms similarly located. To provide the producers of such milk a similar return for deliveries to the Dudley plant, the handler's alternative would have been the payment by him of such differential amount as an addition to the minimum uniform price payable at the latter plant. The milk so shifted continued, however, to be processed at Dudley after being first received at the Putnam location. Such handler testified that he has been planning to close his Putnam plant in the near future and to transfer the operations at that plant to his Dudley plant now regulated under the Worcester order, but that this plan is being inhibited by the present nearby differential situation.

Retention of the milk as part of the Worcester market supply of these handlers would require them competitively to pay the equivalent of the nearby differential as an additional payment above the uniform price, thus placing them at a cost disadvantage with other Worcester handlers purchasing nearby milk.

Worcester handlers are at a disadvantage also in buying milk from farms located in Connecticut, in competition with Connecticut and Southeastern New England handlers. Extension of the nearby differential area would mitigate price differences existing among neighboring farms in Massachusetts and Connecticut from which milk is delivered to the same plant. Worcester handlers thus would be enabled to compete in the purchase of milk on reasonable terms with regulated handlers in adjacent markets. For competitive reasons and efficient marketing of milk, it is desirable that producers who could receive the nearby differential under adjacent markets be afforded similar opportunity under the Worcester order.

A cooperative association of producers operates a pool plant in the Worcester area and a pool plant in the Southeastern New England area. These plants serve as balancing and surplus disposal plants for the respective markets. During excess supply periods they provide an outlet for producer milk which for various reasons cannot be received at other pool plants. Projected construction of an expressway may force relocation of the Worcester plant. The producer association also is considering a program to combine the operations of both the Worcester and Southeastern New England plants in a new plant which could effectively serve both markets.

Need exists for better coordination of the nearby differential area under this order with similar areas under the Southeastern New England and Connecticut orders, where the milksheds overlap substantially that of the Worcester market. While the nearby



differential areas of the Southeastern New England and Connecticut markets extend well into the nearby area of the Worcester milkshed, the reverse is not true at this time, i.e., the Worcester differential area does not extend as far into the nearby milkshed areas of the other two markets. The present pattern of differential areas does not permit the Worcester market equal competitive opportunity to secure milk which might well gravitate to that market as the natural market outlet. Expansion of the nearby differential area as proposed will mitigate this condition and thus assist in implementing in the Worcester market the amendments (affecting all New England orders) made effective September 1, 1960, which were designed to make possible ready shifts of milk among markets as market circumstances and the allocation of supplies require. It would not be reasonable to delay expansion of the Worcester differential area to the communities specified herein if the result would be to inhibit the potential shifting of plants or producers to effect efficient handling and to gain the best available outlets.

There is no indication that extension of the Worcester nearby differential to Eastern Connecticut, Rhode Island, and the counties of Bristol and Plymouth, Massachusetts will qualify immediately any substantial quantity of additional milk for differential payments in the Worcester market. The only plant (referred to above) with any substantial number of producers who would receive the nearby differential which is likely to be added to the Worcester market in the near future is essentially a fluid milk operation. If added, it would bring Class I sales to the Worcester pool, thus minimizing any possible reduction in the uniform price as the result of a wider application of such differentials.

Such extension will recognize the technological advances in the transportation and handling of milk which makes possible plant combinations and improved allocation of supplies among markets with overlapping milksheds. Such plant combinations also tend to make possible more efficient handling of the available supplies of nearby milk.

A representative of certain nearby producers testified that any substantial increase in the Worcester order nearby differential area should be made only on the basis of joint consideration of all such differential areas under the various New England orders. It was pointed out that the Boston order differential areas (23 cents and 46 cents differentials), for example, are determined as areas within certain concentric circles measured from Boston while the Worcester differential area is defined in terms of towns.

In this connection the major consideration is the price relationships resulting under the respective orders in the competing areas of supply rather than the particular method by which such differential areas are defined. As pointed out above, the Worcester market does not at this time enjoy equal opportunity

with the other markets to secure milk which on similar price terms might be expected to associate with that market.

For these reasons the differential area should be revised as provided in this decision.

*2. Need for emergency action effecting the proposed order changes.* The changes hereinafter set forth were supported by the major cooperative association representing producers serving the market and by all handlers appearing at the hearing. Proponents requested emergency action.

However, the Deputy Administrator in his recommended decision of December 28, 1960 found that the problems outlined by proponents were significant and deserving of early solution although the maintenance of orderly marketing conditions in the procurement area of the Worcester market was not threatened to an extent which required elimination of the recommended decision and opportunity for exceptions thereto. We concur in this view.

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

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the

respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Rulings on exceptions.* Exception was made that proposal number 2 of the hearing notice was too vague as to its intent. Although the proposal did not specify the precise areas to which the 46-cent nearby differential was proposed to be extended, it put all interested parties on notice that the subject of nearby differentials and the extension of the area in which they apply, would be considered and explored at the hearing. In these circumstances, the notice adequately defined and described the scope of the subject to be considered as specifically as was practicable. This exception therefore is overruled. Other exceptions relating to procedure have been reviewed and considered and are hereby overruled as being irrelevant, immaterial and not in accordance with the rules of practice.

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

*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 Worcester, Massachusetts, Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Worcester, Massachusetts, Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered.* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Determination of representative period.* The month of October 1960 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Worcester, Massachusetts, marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., this 17th day of January 1960.

CLARENCE L. MILLER,  
Assistant Secretary.



*Order<sup>1</sup> Amending the Order Regulating the Handling of Milk in the Worcester, Massachusetts, Marketing Area*

**§ 999.0 Findings and determinations.**

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

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

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

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

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

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

1. Delete § 999.64(a) of the Worcester order and substitute therefor the following:

(a) With respect to milk delivered by a producer whose farm is located in Bristol, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Plymouth or Worces-

ter Counties in Massachusetts, or in Rhode Island, or east of the Connecticut River in Connecticut or in the towns of Brookline, Greenville, Hinsdale, Hollis, Mason, or New Ipswich in New Hampshire, or Vernon, Vermont, there shall be added 46 cents per hundred-weight, unless such addition gives a result greater than the Class I price pursuant to §§ 999.40 and 999.42 which is effective at the plant to which such milk is delivered in which event there shall be added an amount which will give as a result such price.

[F.R. Doc. 61-560; Filed, Jan. 23, 1961; 8:48 a.m.]

**[ 7 CFR Part 1016 ]**

[Docket No. AO-299-A2]

**MILK IN NORTHEASTERN WISCONSIN MARKETING AREA**

**Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northeastern Wisconsin marketing area, which was issued January 9, 1961 (26 F.R. 251), is hereby extended to February 1, 1961.

Dated: January 18, 1961.

ROY W. LENNARTSON,  
Deputy Administrator.

[F.R. Doc. 61-603; Filed, Jan. 23, 1961; 8:51 a.m.]

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Food and Drug Administration**

**[ 21 CFR Part 8 ]**

**COLOR ADDITIVES**

**Proposed Definitions and Procedural and Interpretative Regulations**

The Commissioner of Food and Drugs, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055, 74 Stat. 399; 21 U.S.C. 371, 376) and pursuant to the authority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625) proposes the promulgation of the following regulations with respect to color additives, and hereby offers an opportunity to all interested persons to present their views in writing to the Hearing Clerk, Department of Health, Education, and Welfare, 330 In-

dependence Avenue SW., Washington 25, D.C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Comments may be accompanied by a memorandum or brief, and it is requested that all comments be filed in quintuplicate.

**Subpart A—Definitions and Procedural and Interpretative Regulations**

- |           |                                                                            |
|-----------|----------------------------------------------------------------------------|
| Sec.      |                                                                            |
| 8.1       | Definitions and interpretations.                                           |
| 8.2       | Related substances.                                                        |
| 8.3       | Color additives in standardized foods.                                     |
| 8.4       | Petitions proposing regulations for color additives.                       |
| 8.5       | Notification of filing of petition.                                        |
| 8.6       | Publication of regulation.                                                 |
| 8.7       | Samples.                                                                   |
| 8.8       | Extension of time for studying petition.                                   |
| 8.9       | Confidentiality of petition.                                               |
| 8.10      | Deception as a basis for refusing to issue regulations.                    |
| 8.11      | Allocation of color additives.                                             |
| 8.12      | Advisory committee on the application of the anticancer clause.            |
| 8.13      | Appointment of advisory committee.                                         |
| 8.14      | Procedure for advisory committee.                                          |
| 8.15      | Condition for certification.                                               |
| 8.16      | Revocation of exemption from certification.                                |
| 8.17      | Listing and exemption from certification on the Commissioner's initiative. |
| 8.18      | Request for exemption from certification.                                  |
| 8.19      | Procedure for filing objections to regulations.                            |
| 8.20      | Notice of public hearing.                                                  |
| 8.21      | Hearing procedure.                                                         |
| 8.22      | Request for certification.                                                 |
| 8.23      | Samples to accompany requests for certification.                           |
| 8.24      | Treatment of batch pending certification.                                  |
| 8.25      | Treatment of batch after certification.                                    |
| 8.26      | Records of distribution.                                                   |
| 8.27      | Certification.                                                             |
| 8.28      | Authority to refuse certification service.                                 |
| 8.29      | Limitations of certificates.                                               |
| 8.30      | Color additive mixtures that may be certified.                             |
| 8.31      | Packaging requirements for color additives (other than hair dyes).         |
| 8.32      | Labeling requirements for color additives (other than hair dyes).          |
| 8.33      | Exemptions of color additives for investigational use.                     |
| 8.34      | Safety factors to be considered.                                           |
| 8.35      | General principles of evaluating the safety of color additives.            |
| 8.36      | Application of the anti-cancer clause of section 706 of the act.           |
| 8.37-8.49 | [Reserved].                                                                |
| 8.50      | Fees.                                                                      |

**Subpart B—General Specifications and General Restrictions for Color Additives for Use in Foods, Drugs, and Cosmetics**

- 8.101 General restrictions on use of color additives.

**Subpart C—Listing of Color Additives for Food Use Subject to Certification [Reserved]<sup>1</sup>**

**Subpart D—Listing of Color Additives for Food Use Exempt to Certification [Reserved]**

**Subpart E—Listing of Color Additives for Drug Use Subject To Certification [Reserved]**

**Subpart F—Listing of Color Additives for Drug Use Exempt to Certification [Reserved]**

**Subpart G—Listing of Color Additives for Cosmetic Use Subject to Certification [Reserved]**

<sup>1</sup> The provisional listings of color additives in §§ 8.501 et seq., will be effective until the regulations in Subparts C-H, inclusive, shall have been promulgated.

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.



**Subpart H—Listing of Color Additives for Cosmetic Use Exempt From Certification [Reserved]**

**AUTHORITY:** §§ 8.1 to 8.101 Issued under secs. 701, 706, 52 Stat. 1055, as amended; 74 Stat. 399; 21 U.S.C. 371, 376.

**Subpart A—Definitions and Procedural and Interpretative Regulations**

**§ 8.1 Definitions and interpretations.**

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Commissioner" means the Commissioner of Food and Drugs.

(d) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended.

(e) "Color Certification Branch" means the unit established within the Food and Drug Administration located in the Bureau of Biological and Physical Sciences, charged with the responsibility for the development of color methods and the mechanics of the certification procedure hereinafter described, and including the examination of samples of color additives subject to certification.

(f) "Color additives" includes any substance not exempted under section 201(t) of the act, which, when added or applied to a food, drug, or cosmetic or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting a color thereto. This includes all diluents. The term also includes substances capable of imparting color to a container for food, drugs, or cosmetics if the customary or reasonably foreseeable handling or use of the container may reasonably be expected to result in the color being transmitted to the contents of the package or any part thereof, whether or not such transfer is intended by the manufacturer of the container, or of the food, drug, or cosmetic. Food ingredients such as cherries, green or red peppers, chocolate, and orange juice which contribute their own natural color when mixed with other foods are not regarded as "color additives"; but where a food substance such as beet juice is deliberately used as a color, as in pink lemonade, it is a "color additive." Food ingredients as authorized by a definition and standard of identity prescribed by regulations pursuant to section 401 of the act are "color additives," where the ingredients are specifically designated in the definitions and standards of identity as permitted for use for coloring purposes. An ingredient of an animal feed which by its action through the biological process of the animal is capable of imparting color to the meat, milk, or eggs of the animal, whether or not the ingredient has additional nutritive functions, is a color additive and is not exempt from the requirements of the statute. A substance applied to the human body which results in coloring is a "color additive." For the purposes of this part, the term "color" includes black, white, and intermediate grays, but substances including migrants from

packaging materials which do not contribute any color apparent to the naked eye are not "color additives."

(g) For a substance otherwise meeting the definition of "color additive" to be exempt from section 706 of the act, on the basis that it is used (or intended to be used) solely for a purpose or purposes other than coloring, the material must:

(1) If a food additive, have been approved for the intended use; or

(2) Be demonstrated to be safe if being added to a drug or cosmetic; and

(3) Be used in a way that any color imparted is clearly unimportant insofar as the appearance, value, marketability, or consumer acceptability is concerned. (It is not enough to warrant exemption if conditions are such that the primary purpose of the material is other than to impart color.)

(h) The exemption that applies to a pesticide chemical, soil or plant nutrient, or other agricultural chemical, where its coloring effect results solely from its aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil, applies only to color developed in such product through natural physiological processes such as enzymatic action. If the pesticide chemical, soil or plant nutrient, or other agricultural chemical itself acts as a color, or carries as an ingredient a color, and because of this property colors the produce of the soil, it is a "color additive" and is not exempt.

(i) "Safe" means that there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive.

(j) The term "straight color" means a color additive listed in Subparts C, D, and E of this part, and includes lakes and such substances as are permitted by the specifications for such color.

(k) The term "mixture" means a color additive made by mixing two or more straight colors, or one or more straight colors and one or more diluents.

(l) The term "lake" means a straight color extended on a substratum by adsorption, coprecipitation, or chemical combination that does not include any combination of ingredients made by simple mixing process.

(m) The term "diluent" means any component of a color additive mixture that is not of itself a color additive and has been intentionally mixed therein.

(n) The term "substratum" means the substance on which the pure color in a lake is extended.

(o) The term "pure color" means the color contained in a color additive, exclusive of any intermediate or other component, or of any diluent or substratum contained therein.

(p) The term "batch" means a homogeneous lot of color additive produced by an identified production operation, which is set apart and held as a unit for the purpose of obtaining certification of such quantity.

(q) The term "batch number" means the number assigned to a batch by the

person who requests certification thereof.

(r) The term "lot number" means an identifying number or symbol assigned to a batch by the Food and Drug Administration.

(s) The term "area of the eye" means the area enclosed within the circumference of the supra-orbital ridge and the infra-orbital ridge, including the eyebrow, the skin below the eyebrow, the eyelids and the eyelashes, and conjunctival sac of the eye, the eyeball, and the soft areolar tissue that lies within the perimeter of the infra-orbital ridge.

(t) The term "mixed oxides" means the sum of quantities of aluminum, iron, calcium, and magnesium (in whatever combination they may exist in a color additive) calculated as aluminum trioxide, ferric oxide, calcium oxide, and magnesium oxide.

(u) The term "package" means the immediate container in which a color has been packed for shipment or delivery. If the package is then packed in a shipping carton or other protective container, such container shall not be considered to be the immediate container. In the case of color mixtures for household use containing less than 5 percent pure color, when two or more containers of 1 ounce each or less, each containing a different color, are distributed as a unit, the immediate container for such unit shall be considered to be the package as defined in this section.

(v) The term "hair dye" means an article (bearing or containing a color additive) that is prominently labeled with the name "hair dye," that is intended for use solely as a hair dye, and that alters the color of the hair when applied to the hair under conditions of use prescribed in the labeling. It does not include color shampoos, rinses, tints, and similar dual-purpose cosmetics which alter the color of the hair.

**§ 8.2 Related substances.**

(a) Different color additives may cause similar or related pharmacological or biological effects, and, in the absence of evidence to the contrary, those that do so will be considered to have additive toxic effects.

(b) Food additives may also cause pharmacological or biological effects similar or related to such effects caused by color additives, and, in the absence of evidence to the contrary, those that do so will be considered as having additive toxic effects.

(c) Pesticide chemicals may also cause pharmacological or biological effects similar or related to such effects caused by color additives, and, in the absence of evidence to the contrary, those that do so will be considered to have additive toxic effects.

(d) In establishing tolerances for color additives, the Commissioner will take into consideration, among other things, the amount of any common component permitted in other color additives, in food additives, and in pesticide chemical residues as well as the similar biological activity (such as cholinesterase inhibition) produced by such substance.



### § 8.3 Color additives in standardized foods.

(a) Where a petition is received for issuance or amendment of a regulation establishing a definition and standard of identity for a food under section 401 of the act, which proposes the inclusion of a color additive in the standardized food, the provisions of the regulations in this part shall apply with respect to the information that must be submitted with respect to the safety of the color additive (if such information has not previously been submitted and safety of the color additive for the intended use has not been already established), and the petitioner must show also that the use of the color additive in the standardized food would be in conformance with section 401 of the act or with the terms of a temporary permit issued under § 3.12 of this chapter.

(b) If a petition for a definition and standard of identity contains a proposal for a color additive regulation, and the petitioner fails to designate it as such, the Commissioner, upon determining that the petition includes a proposal for a color additive regulation, shall so notify the petitioner and shall thereafter proceed in accordance with the regulations in this part.

(c) A regulation will not be issued allowing the use of a color additive in a food for which a definition and standard of identity is established, unless its issuance is in conformance with section 401 of the act or with the terms of a temporary permit issued under § 3.12 of this chapter. When the contemplated use of such additive complies with the terms of a temporary permit, the color additive regulation will be conditioned on such compliance and will expire with the expiration of the temporary permit.

### § 8.4 Petitions proposing regulations for color additives.

(a) Any interested person may propose the listing of a color additive for use in or on any food, drug, or cosmetic. Such proposal shall be made in a petition in the form prescribed in paragraph (c) of this section. The petition shall be submitted in triplicate. If any part of the material submitted is in a foreign language, it shall be accompanied by an accurate and complete English translation. The petitioner shall state the post-office address in the United States to which published notices or orders issued or objections filed pursuant to section 706 of the act may be sent.

(b) Pertinent information may be incorporated in, and will be considered as part of, a petition on the basis of specific reference to such information submitted to and retained in the files of the Food and Drug Administration. However, any reference to unpublished information furnished by a person other than the applicant will not be considered unless use of such information is authorized in a written statement signed by the person who submitted the information. Any reference to published information offered in support of a color additive petition should be accompanied by reprints or photostatic copies of such references.

(c) Petitions shall include the following data and be submitted in the following form:

-----  
(Date)  
Name of petitioner -----  
Post-office address -----  
Name of color additive and proposed use ----  
Commissioner of Food and Drugs,  
Food and Drug Administration,  
Department of Health, Education, and  
Welfare,  
Washington 25, D.C.

Dear Sir:

Petitioner submits this pursuant to section 706(b)(1) of the Federal Food, Drug, and Cosmetic Act requesting listing by the Commissioner of the color additive ----- as suitable and safe for use in or on -----, subject to the conditions that -----

[Petitioner may propose a listing for general use in food, drugs, or cosmetics or, if such general listing is not believed suitable and safe, the petitioner shall describe the conditions under which he believes the additive can be safely used and for which it will be suitable. These conditions may include tolerance limitations, specifications as to the manner in which the additive may be added or used, and directions and other labeling or packaging safeguards that should be applied. The level of use proposed should not be higher than reasonably required to accomplish the intended color effect.]

Attached hereto in triplicate and constituting a part of this petition are the following:

A. The name and all pertinent information concerning the color additive, including chemical identity and composition of the color additive, its physical, chemical, and biological properties, and specifications prescribing its component(s) and identifying and limiting the reaction byproducts and other impurities.

The petition shall contain a description of the chemical and physical tests relied upon to identify the additive and shall contain a full description of the methods used in, and the facilities and controls used for, the production of the color additive. These shall establish that it is a substance of reproducible composition. Alternative methods and controls and variations in methods and controls, within reasonable limits, that do not affect the characteristics of the substance or the reliability of the controls may be specified.

The petition shall supply a list of all substances used in the synthesis, extraction, or other method of preparation, regardless of whether they undergo chemical change in the process. Each substance should be identified by its common or usual name and its complete chemical name, using structural formulas when necessary for specific identification. If any proprietary preparation is used as a component, the proprietary name should be followed by a complete quantitative statement of composition. Reasonable alternatives for any listed substance may be specified.

If the petitioner does not himself perform all the manufacturing, processing, and packing operations for a color additive, the petition shall identify each person who will perform a part of such operations and designate the part.

The petition shall include stability data, and, if the data indicate that it is needed to insure the identity, strength, quality, or purity of the additive, the expiration period that will be employed as well as any packaging and labeling precautions needed to preserve stability.

B. The amount of the color additive proposed for use and the color effect intended to be achieved, together with all directions, recommendations, and suggestions regard-

ing the proposed use, as well as specimens of the labeling proposed for the color additive. If the additive results or may reasonably be expected to result from its use in packaging material, the petitioner shall show how this may occur and what residues may reasonably be anticipated.

Typewritten or other draft-labeling copy will be accepted for consideration of the petition, provided a statement is made that final printed labeling identical in content to the draft copy will be submitted as soon as available and prior to the marketing of the color additive.

If the color additive is one for which a tolerance limitation is required to assure its safety, the level of use proposed should be no higher than the amount reasonably required to accomplish the intended physical or other technical effect, even though the safety data may support a higher tolerance. If the safety data will not support the use of the amount of the color additive reasonably needed to accomplish the desired color effect, the requested tolerance will not be established. Petitioners are expected to propose the use of color additives in accordance with sound color chemistry.

C-1. A description of practicable methods to determine the pure color and all intermediates, subsidiary colors, and other components of the color additive.

2. A description of practicable methods to determine the amount of the color additive in any raw, processed, and/or finished food, drug, or cosmetic in which use of the color additive is proposed. (The tests proposed shall be those that can be used for food, drug, or cosmetic control purposes and can be applied with consistent results by any properly equipped laboratory and trained personnel.)

3. A description of methods for identification and determination of any substance found in or on such food, drug, or cosmetic because of the use of the color additive. (If it is the petitioner's view that any such method would not be needed, under the terms of the section 706(b)(5)(A)(iv), a statement shall be submitted in lieu of methods as to the basis for such view.)

D. Full reports of investigations made with respect to the safety of the color additive.

(A petition will be regarded as incomplete unless it includes full reports of adequate tests reasonably applicable to show whether or not the color additive will be safe for its intended use. The reports ordinarily should include detailed data derived from appropriate animal and other biological experiments in which the methods used and the results obtained are clearly set forth. The petition shall not omit without explanation any data that would influence the evaluation of the safety of the color additive.)

E. Complete data which will allow the Commissioner to consider, among other things, the probable consumption of, and/or other relevant exposure from the additive and of any substance formed in or on food, drugs, or cosmetics because of such additive; and the cumulative effect, if any, of such additive in the diet of man or animals, taking into account the same or any chemically or pharmacologically related substance or substances in the diet, including, but not limited to food additives and pesticide chemicals for which tolerances or exemptions from tolerances have been established.

F. Proposed tolerances and other limitations on the use of the color additive, if tolerances and limitations are required in order to insure its safety. A petitioner may include a proposed regulation.

G. If exemption from batch certification is requested, the reasons why it is believed such certification is not necessary.

H. If submitting a petition to alter an existing regulation issued pursuant to section 706(b) of the act, full information on each proposed change that is to be made in the



original regulation must be submitted. The petition may omit statements made in the original petition concerning which no change is proposed. A supplemental petition must be submitted for any change beyond the variations provided for in the original petition and the regulation issued on the basis of the original petition.

I. The prescribed fee of \$----- for admitting the color additive to listing is enclosed (unless there is an advance deposit adequate to cover the fee).

Yours very truly,

-----  
(Petitioner)  
By -----  
(Indicate authority)

(d) The petitioner will be notified of the date on which his petition is filed; and an incomplete petition, or one that has not been submitted in triplicate, will be retained but not filed. A petition shall be retained but shall not be filed if any of the data listed in the above form are lacking or are not set forth so as to be readily understood or if the prescribed fee has not been submitted. The petitioner will be notified in what respects his petition is incomplete.

(e) The petition must be signed by the petitioner or by his attorney or agent, who is a resident of the United States, or by an authorized official.

(f) The data specified under the several lettered headings should be submitted on separate sheets or sets of sheets, suitably identified. If such data have already been submitted with an earlier application, the present petition may incorporate it by specific reference to the earlier petition.

#### § 8.5 Notification of filing of petition.

(a) Except where the petition involves a new drug, the Commissioner, within 15 days after receipt, will notify the petitioner of acceptance or nonacceptance of a petition, and if not accepted the reasons therefor. If accepted, the date of the notification letter sent to petitioner becomes the date of filing for the purposes of section 706(d)(1) of the act. If the petitioner desires, he may supplement a deficient petition after being notified regarding deficiencies. If the supplementary material or explanation of the petition is deemed acceptable, petitioner shall be notified. The date of such notification becomes the date of filing. If the petitioner does not wish to supplement or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified. The date of such notification becomes the date of filing. Where the petition involves a new drug, notification to the petitioner will be made within 30 days.

(b) The Commissioner will cause to be published in the *FEDERAL REGISTER* within 30 days from the date of filing of such petition a notice of the filing, the name of the petitioner, and a brief description of the proposal in general terms. A copy of the notice will be mailed to the petitioner when the original document is signed.

#### § 8.6 Publication of regulation.

The Commissioner will forward for publication in the *FEDERAL REGISTER*, within 90 days after filing of the petition

(or within 180 days if the time is extended as provided for in section 706(d)(1) of the act):

(a) A regulation listing in Subpart C, D, E, F, G, or H of this part the color additive on the appropriate list or lists as provided under section 706(b)(1).

(1) Such a regulation may list the color additive for use generally in or on food, drugs, or cosmetics as the case may be, or may prescribe the conditions under which the color additive may be safely used (including, but not limited to, specifications as to the particular food, drug, or cosmetic or classes of food, drugs, or cosmetics in or on which such additive may be used; the maximum quantity that may be used or permitted to remain in or on such food, drug, or cosmetic; the manner in which such additive may be added to or used in or on such food, drug, or cosmetic; and any directions or other labeling or packaging requirements for such additives deemed necessary to assure the safety of such use).

(2) Such regulations shall list the color additive only for the use or uses for which it has been found suitable and for which it may safely be employed. Alternatively, the Commissioner shall by order deny the petition, and notify the petitioner of such order and the reasons therefor.

(b) Whenever the Commissioner finds that batch certification is not necessary for the protection of the public health he will, by order, exempt the color additive from the certification procedure. In determining whether certification of a color additive is necessary, the Commissioner will consider the composition of the additive, its manufacturing process, possible impurities, its toxic potential, control and analytical procedures necessary to assure compliance with the listing specifications, and the variability of its composition.

#### § 8.7 Samples.

The Commissioner may request samples of the color additive, articles used as components thereof, or of the food, drug, or cosmetic in which the additive is proposed to be used, at any time while a petition is under consideration. The Commissioner shall specify in the request for a sample of the color additive, or articles used as components thereof, or of the food, drug, or cosmetic in or on which the additive is proposed to be used, a quantity deemed adequate to permit tests of analytical methods to determine quantities of the color additive present in products for which it is intended to be used or adequate for any study or investigation reasonably required with respect to the safety of the additive or the physical or technical effect it produces. The data used for computing the 90-day limit for the purposes of section 706(d)(1) of the act shall be moved forward 1 day for each day, after the mailing date of the request, taken by the petitioner to submit the sample. If the information or sample is requested a reasonable time in advance of the 180 days, but is not submitted within such 180 days after filing of the petition, the

petition will be considered withdrawn without prejudice.

#### § 8.8 Extension of time for studying petition.

If the Commissioner determines that additional time is needed to study and investigate the petition, he shall by written notice to the petitioner extend the 90-day period for not more than 180 days after the filing of the petition.

#### § 8.9 Confidentiality of petition.

Data in a petition regarding any method or process entitled to protection as a trade secret will be held confidential and not revealed, unless it is necessary to do so in the record of an administrative hearing preliminary to possible judicial proceedings under section 706 of the act. Data in the petition will not be revealed to persons other than the petitioner and persons engaged in the enforcement of the act beyond that which is necessary to comply with section 706(d)(1) (notice of the regulation proposed) and 706(b)(1) (order acting on the petition).

#### § 8.10 Deception as a basis for refusing to issue regulations.

The Commissioner shall refuse to issue a regulation listing a color additive, if in his judgment the data before him show that such proposed use would promote deception of the consumer or would result in misbranding or adulteration within the meaning of the act. Such a finding shall be by order published in the *FEDERAL REGISTER* subject to the filing of objections and a request for a hearing by adversely affected parties.

#### § 8.11 Allocation of color additives.

Whenever, in the consideration of a petition or a proposal to list a color additive or to alter an existing listing, the data before the Commissioner fail to show that it would be safe to list the color additive for all the uses proposed or at the levels proposed, the Commissioner will notify the petitioner and other interested persons by publication in the *FEDERAL REGISTER* that it is necessary to allocate the safe tolerance for the color additive among the competing needs. This notice shall call for the presentation of data by all interested persons on which the allocation can be made in accordance with section 706(b)(8)(A), (B), and (C) of the act. The time for acting upon the petition shall be stayed until such data are presented, whereupon the time limits shall begin to run anew. As promptly as possible after presentation of the data, the Commissioner will, by order, announce the allocation and the tolerance limitations.

#### § 8.12 Advisory committee on the application of the anti-cancer clause.

(a) Any person who will be adversely affected by any action or proposed action applying the anti-cancer clause, may at any time, before or within 30 days after, the publication of the Commissioner's order taking such action, request the referral of the matter to an advisory committee for a report and recommendations. Such request shall be made in writing to the Commissioner



and shall be accompanied by an advance deposit for fees prescribed by § 8.50.

(b) The Commissioner may, at any time, upon his own initiative refer any such matter to an advisory committee for a report and recommendations. In case the Commissioner on his own initiative deems it necessary to refer a proposal to an advisory committee, he shall, in writing, so inform the person filing the petition, if any there be.

#### § 8.13 Appointment of advisory committee.

(a) Whenever the referral of a petition or proposal to an advisory committee is requested, or the Commissioner otherwise deems such referral necessary, the Commissioner will request the National Academy of Sciences to select qualified experts willing to serve on the advisory committee. All such experts shall have had sufficient training and experience in biology, medicine, physiology, toxicology, pharmacology, veterinary medicine, or other appropriate science to qualify them on the subject matter to be referred to them. The Commissioner will request the National Academy of Sciences, when it furnishes the names of such experts, to supply a biographical sketch showing the background of their experience and their connection, if any, with academic and commercial institutions.

(b) Each advisory committee shall consist of not less than three experts qualified in the subject matter to be referred to the committee and of adequately diversified professional background. The Commissioner may specify a larger number to serve. He shall appoint one member of the committee as chairman, and the chairman shall be the spokesman of the committee for receiving and forwarding reports and other functions of the committee.

(c) The Commissioner shall appoint the experts so selected and fix their compensation at not to exceed \$75.00 a day for each day or part thereof spent in committee meetings and in traveling to and from committee meetings held outside the city of their residence, plus necessary traveling and subsistence expenses while the experts are serving away from their places of residence. Subsistence expenses shall not exceed \$25.00 per day.

#### § 8.14 Procedure for advisory committee.

(a) The Commissioner shall submit to the chairman of the committee the petition, if any there be; all pertinent data on which he based the issuance, amendment, or repeal of any regulation in question; and other such relevant, reliable information as is available. When the Commissioner submits a proposal to an advisory committee, he shall inform the petitioner, if any there be, and furnish him with copies of material other than the petition that is furnished the committee. The chairman of the committee shall acknowledge receipt of the information and readiness of the committee to act. The date of receipt of such information shall be considered the beginning of the period allowed for consideration by the committee. Copy

of this acknowledgment shall be forwarded to the petitioner, if any there be, by the chairman of the committee.

(b) A secretariat to the advisory committees will be established by the Commissioner. The secretariat shall furnish members of the committee with copies of the proposal or petition and any data received by the chairman. If the chairman of the committee believes that a meeting of the committee is necessary before making a recommendation, he shall so advise the Commissioner. Such meetings shall be held in Washington, D.C., or at such other place as the Commissioner shall furnish a suitable meeting place for the committee. If a meeting is held, the secretariat shall keep the minutes and provide clerical assistance.

(c) As soon as practicable, the advisory committee shall make an independent study of the data, and not later than 60 days after receipt of the proposal or petition (unless the time has been extended as provided in paragraph (d) of this section), the chairman shall certify to the Commissioner the report and recommendations of the committee, including any minority report, together with all underlying data and a statement of the reasons or basis for the recommendations, and shall return the petition or proposal. The report will include copies of all material considered by the committee, except that in the case of scientific literature readily available in scientific libraries proper reference may be made to it instead of furnishing actual copies. A copy of the report of the advisory committee will be supplied to any person who has filed a petition or requested the referral to the advisory committee.

(d) If at any time within 60 days the chairman believes that the advisory committee needs more time, he shall so inform the Commissioner in writing, in which case he shall make the certification contemplated by section 706(b)(5)(C)(ii) of the act within the additional 30 days. The Commissioner shall in turn notify the petitioner.

(e) Within 30 days after receipt of the committee report, the Commissioner shall confirm or modify any order theretofore issued by him or shall issue an order acting on the proposal if no order has been issued.

(f) The chairman of the committee, after consultation with the committee members, will inform the National Academy of Sciences of the committee's opinion as to the member who may best represent the committee at a hearing, if one occurs.

(g) More than one petition or proposal may be handled by a committee concurrently.

(h) A person who has filed a petition or who has requested the referral of a proposal to the advisory committee in accordance with the provisions of this section, as well as representatives of the Department of Health, Education, and Welfare, shall have a right to consult with the committee in connection with the petition or proposal. Such persons shall notify the chairman and if practicable make appointments through him.

The report of the committee shall show the names of persons other than committee members discussing proposals or petitions with the committee. Except for discussions with authorized persons the committee shall not disclose data originating with a petitioner prior to publication of a regulation.

#### § 8.15 Condition for certification.

(a) When the Commissioner cannot conclude from the information before him that there is a basis for exempting a color additive from the requirement of batch certification, he will so order by appropriate listing in Subpart C, E, or G of this part. The Commissioner's order shall state in detail the specifications that shall be met by the color additive.

(b) Each order shall state a period of time, not exceeding 90 days, after which use of a color additive subject to batch certification but not from a batch certified by procedure prescribed in this section would result in adulteration of the product in which it is used.

#### § 8.16 Revocation of exemption from certification.

If information becomes available to the Commissioner that a color additive that has been granted exemption from certification should not, for the protection of the public health, be so exempted, such exemption will be canceled forthwith by a notice published in the FEDERAL REGISTER.

#### § 8.17 Listing and exemption from certification on the Commissioner's initiative.

Where a petition for a regulation to list a color additive has not been received and the Commissioner has available facts which demonstrate that a color additive should be listed and/or that certification procedure is not necessary in order to protect the public health, he may list such color additive by appropriate regulation and listing in Subpart D, F, or H of this part, and he may exempt the color additive from certification.

#### § 8.18 Request for exemption from certification.

A manufacturer, packer, or distributor of a color additive that has not been exempted from the certification procedure by order of the Commissioner may make formal objections and request an order providing such exemption. Such a request shall be accompanied by full facts on which such a request is based. The request may furnish reasonable grounds for the desired finding including specifically why such certification is not necessary for the protection of the public health.

#### § 8.19 Procedure for filing objections to regulations.

(a) Objections under sections 706(d) and 203(d)(2)(C) of the act shall be submitted in quintuplicate to the Hearing Clerk of the Department and shall be accompanied by a filing fee as specified in § 8.50. Each objection to a provision of the regulation shall be separately numbered.



## PROPOSED RULE MAKING

(b) A statement of objections shall not be accepted for filing if:

(1) It fails to establish that the objector is adversely affected by the regulation; or

(2) It does not specify with particularity the provisions of the regulation to which objection is taken; or

(3) It does not state reasonable grounds for each objection raised. Grounds which it is reasonable to conclude are capable of being established by reliable evidence at the hearing and which if proved would call for changing the provisions specified in the objections will be deemed reasonable grounds.

(4) The fee is not submitted.

(c) If the statement of objections may not be filed, the Commissioner shall inform the objector of the reasons.

### § 8.20 Notice of public hearing.

If the objections and statement filed by any person, when they are considered with the record in the proceeding (including any reply to the objections that the petitioner may have filed), show that the person filing the objections will be adversely affected and that the grounds stated in support of the objections are reasonable, the Commissioner shall cause to be published in the **FEDERAL REGISTER** a notice reciting the objections and announcing a public hearing to receive evidence on them. The notice shall designate the place where the hearing will be held, specify the time within which appearances must be filed, and specify the time (not earlier than 30 days after the date of the notice) when the hearing will start. The hearing shall convene at the place and time announced in the notice, but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without other notice than announcement thereof by the presiding officer at the hearing.

### § 8.21 Hearing procedure.

Public hearings will be conducted in accordance with the rules provided therefor in Part 2 of this chapter.

### § 8.22 Request for certification.

A request for certification of a batch of color additive shall:

(a) Be addressed to the Color Certification Branch.

(b) Be prepared in the manner set forth in paragraph (i) of this section.

(c) Be submitted in duplicate.

(d) Be signed by a responsible officer of the manufacturer requesting certification of the batch. In the case of a foreign manufacturer, the request for certification must be signed by a responsible officer of such firm, and, by his agent who resides in the United States.

(e) Show the name and post-office address of the actual manufacturer in case such manufacturer is not the person requesting certification of the batch.

(f) Be accompanied by the fee prescribed in § 8.50 unless the manufacturer has established with the Food and Drug Administration an advance deposit to be used for prepayment of such fees. In no case shall the Commissioner con-

sider a request for certification of a batch of color additive if the fee accompanying such request is less than that required by § 8.50 or if such fee exceeds the amount held in the advance deposit account of the manufacturer submitting such request for certification.

(g) Be accompanied by the sample prescribed in § 8.23 consisting of:

(1) Four ounces in the case of straight colors and lakes.

(2) Two ounces in the case of repacks and mixtures.

A sample accompanying a request for certification must be submitted under separate cover and should be addressed to the Color Certification Branch.

(h) The name of a color additive shall be given in the following manner:

(1) The name of straight color additives shall be the name of the color as listed in Subparts C, D, E, F, G, or H of this part.

(2) The name of a lake shall be the name derived in the manner described in Subparts C, D, E, F, G, or H of this part.

(3) The name of a mixture shall be the name given to such mixture by the manufacturer.

(4) The name of a repack shall be the name described in subparagraph (1), (2), or (3) of this paragraph, whichever is applicable.

(i) The form for submission of the application shall be one of the following, depending upon whether the color additive is a straight color, a lake, a repack, or a previously certified color additive, or a mixture of color additives:

(1) *Request for certification of a batch of straight color additive.*

Date \_\_\_\_\_  
Color Certification Branch,  
Food and Drug Administration,  
Department of Health, Education, and  
Welfare,  
Washington 25, D.C.

In accordance with the regulations promulgated under the Federal Food, Drug, and Cosmetic Act, we hereby make application for the certification of a batch of straight color additive.

Name of color \_\_\_\_\_  
(As listed in Subpart C, E, or G)

Batch number \_\_\_\_\_  
(Manufacturer's number)

Batch weighs \_\_\_\_\_ pounds

Batch manufactured by \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_

(Name and address of actual manufacturer)

How stored pending certification \_\_\_\_\_

\_\_\_\_\_

(State conditions of storage, with kind and

size of containers, location, etc.)

Certification requested of this color for use in \_\_\_\_\_

\_\_\_\_\_

(State proposed uses)

Required fee, \$\_\_\_\_\_ (drawn to the order of

Food and Drug Administration).

The accompanying sample was taken after

the batch was mixed in accordance with 21

CFR 8.23 and is accurately representative

thereof.

(Signed) \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_

(Title)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(2) *Request for certification of a batch of color additive lake.*

Date \_\_\_\_\_  
Color Certification Branch,  
Food and Drug Administration,  
Department of Health, Education, and  
Welfare,  
Washington 25, D.C.

In accordance with the regulations promulgated under the Federal Food, Drug, and Cosmetic Act, we hereby make application for the certification of a batch of color additive lake.

Name of color \_\_\_\_\_

Batch number \_\_\_\_\_

(Manufacturer's number)

Batch weighs \_\_\_\_\_ pounds

Name of color used \_\_\_\_\_

Quantity \_\_\_\_\_ pounds

Lot number \_\_\_\_\_

(When certification of the lake

for use in foods is requested)

Precipitant used \_\_\_\_\_

Substratum used \_\_\_\_\_

Quantity \_\_\_\_\_ pounds

Batch manufactured by \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_

(Name and address of actual manufacturer)

How stored pending certification \_\_\_\_\_

\_\_\_\_\_

(State conditions of storage, with kind and

size of containers, location, etc.)

Certification requested of this color for use in \_\_\_\_\_

\_\_\_\_\_

(State proposed uses)

Required fee, \$\_\_\_\_\_ (drawn to the order of

Food and Drug Administration).

The accompanying sample was taken after

the batch was mixed in accordance with 21

CFR 8.23 and is accurately representative

thereof.

(Signed) \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_

(Title)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**(4) Request for certification of a batch of color additive mixture.**

Date -----

Color Certification Branch,  
Food and Drug Administration,  
Department of Health, Education, and  
Welfare,  
Washington 25, D.C.

In accordance with the regulations promulgated under the Federal Food, Drug, and Cosmetic Act, we hereby make application for the certification of a batch of color additive mixture.

Name of mixture -----  
(Manufacturer's trade name)

Batch number -----  
(Manufacturer's number)

Weight of batch ----- pounds  
Volume of batch ----- gallons  
(If liquid)

Batch manufactured by -----  
Constituents of the mixture:

**1. Certified color(s) (List separately each color and each lot number.)**

| Name of color<br>(as certified) | Lot number |
|---------------------------------|------------|
| -----                           | -----      |
| -----                           | -----      |

| Quantity used<br>(in pounds) | Obtained from |
|------------------------------|---------------|
| -----                        | -----         |
| -----                        | -----         |

**2. List of diluents (List separately each diluent.)**

| Name of diluent | Quantity<br>(if liquid) |
|-----------------|-------------------------|
| -----           | -----                   |
| -----           | -----                   |

| Quantity used            |                          |
|--------------------------|--------------------------|
| By weight<br>(if liquid) | By volume<br>(if liquid) |
| -----                    | -----                    |
| -----                    | -----                    |

Batch mixed as follows -----  
(Describe in detail)

How stored pending certification -----  
(State conditions of storage, with kind and size of containers, location, etc.)

Certification requested for use in -----  
(State proposed uses)

Required fee, \$----- (drawn to the order of Food and Drug Administration).

The accompanying sample was taken after the batch was mixed in accordance with 21 CFR 8.23 and is accurately representative thereof.

(Signed) -----  
By -----  
(Title)

**§ 8.23 Samples to accompany requests for certification.**

A sample of a batch of color additive which is to accompany a request for certification shall:

- Be taken only after such batch has been so thoroughly mixed as to be of uniform composition throughout.
- Be closed in a container of such kind as to prevent change in the composition of such sample.
- Be labeled to show:
  - The name of the color.
  - The manufacturer's batch number.
  - The quantity of such batch.
  - The name and post-office address of the persons requesting certification of such batch.

**§ 8.24 Treatment of batch pending certification.**

Immediately after the sample that is to accompany a request for certification of a batch of color additive is taken, the batch shall be:

- Stored in containers of such kind as to prevent change in composition.
- Held at place of manufacture until certified or until certification thereof is refused.
- Marked, by labeling or otherwise, in a manner such that there can be no question as to the identity of the batch and no question that it is not to be used until the requested certificate has been issued.

**§ 8.25 Treatment of batch after certification.**

(a) Immediately upon notification that a batch of color additive has been certified, the manufacturer thereof shall identify such batch, by labeling, with the certified lot number and pure color content.

(b) Maintain storage in such manner as to prevent change in composition until such batch has been packaged and labeled as required by §§ 8.31 and 8.32, except that a manufacturer may use such color additive for the purpose of coloring in a food, drug, or cosmetic, or in a mixture in which that color additive is used as an ingredient.

**§ 8.26 Records of distribution.**

(a) The person to whom a certificate is issued shall keep complete records showing the disposal of all the color additive from the batch covered by such certificate. Upon the request of any officer or employee of the Food and Drug Administration or of any other officer or employee acting on behalf of the Secretary of Health, Education, and Welfare, such person, at all reasonable hours until at least 2 years after disposal of all such color, shall make such records available to any such officer or employee, and shall accord to such officer or employee full opportunity to make inventory of stocks of such color on hand and otherwise to check the correctness of such records.

(b) The records required to be kept by paragraph (a) of this section shall show:

- Each quantity used by such person from such batch and the date and kind of such use.
- The date and quantity of each shipment or delivery from such batch, and the name and post-office address of the person to whom such shipment or delivery was made.

(c) The records required to be kept by paragraph (a) of this section shall be kept separately from all other records.

**§ 8.27 Certification.**

(a) If the Commissioner determines, after such investigations as he considers to be necessary, that:

- A request submitted in accordance with § 8.22 appears to contain no untrue statement of a material fact;
- In the case of a straight color, such color conforms to the specifications

set forth therefor in Subpart C, E, or G of this part.

(3) In the case of a mixture, the diluent is safe for use; and

(4) The batch covered by such request otherwise appears to comply with the regulations in this part, the Commissioner shall issue to the person who submitted such request a certificate showing the lot number assigned to such batch and that such batch, subject to the terms, conditions, and restrictions prescribed by Subpart C of this part, is a certified batch.

(b) If the Commissioner determines, after such investigation as he considers to be necessary, that a request submitted in accordance with § 8.22, or the batch of color additive covered by such request, does not comply with the requirements prescribed by paragraph (a) of this section for the issuance of a certificate, the Commissioner shall refuse to certify such batch and shall give notice thereof to the person who submitted such request, stating his reasons for refusal.

**§ 8.28 Authority to refuse certification service.**

(a) When it appears to the Commissioner that a person has:

(1) Obtained, or attempted to obtain, a certificate through fraud or misrepresentation of a material fact.

(2) Falsified the records required to be kept by § 8.26; or

(3) Failed to keep such records, or to make them available, or to accord full opportunity to make inventory of stocks on hand or otherwise to check the correctness of such records, as required by § 8.26; or

(4) Refused to permit duly authorized employees of Food and Drug Administration free access to all manufacturing facilities, processes, and formulae involved in the manufacture of color additives and intermediates from which such color additives are derived;

he may immediately suspend certification service to such person and may continue such suspension until adequate corrective action has been taken.

(b) Upon receipt of notice of suspension of service, the person so notified may request a hearing upon the factual basis for the suspension. The procedure at the hearing shall conform as nearly as possible to the procedure described in §§ 130.14-130.26 of this chapter.

**§ 8.29 Limitations of certificates.**

(a) If a certificate is obtained through fraud or misrepresentation of a material fact, such certificate shall not be effective, and a color additive from the batch on which such certificate was issued shall be considered to be from a batch that has not been certified in accordance with the regulations in this part. Whenever, the Commissioner learns that any certificate has been obtained through fraud or material misrepresentation, he shall notify the holder of the certificate that it is of no effect.

(b) If between the time a sample of color additive accompanying a request for certification is taken and the time a certificate covering the batch of such color is received by the person to whom



it is issued, any such color becomes changed in composition, such certificates shall not be effective with respect to such changed color and such changed color shall be considered to be from a batch that has not been certified in accordance with the regulations in this part.

(c) If at any time after a certificate is received by the person to whom it is issued any color additive from the batch covered by such certificate becomes changed in composition, such certificate shall expire with respect to such changed color. After such expiration such color shall be considered to be from a batch that has not been certified in accordance with this part; except that such color shall not be so considered when used for coloring a food, drug, or cosmetic, or for the purpose of certifying a batch of a mixture in which such color was used as an ingredient, if such change resulted solely from such use.

(d) A certificate shall expire with respect to any color additive covered thereby if the package in which such color was closed for shipment or delivery is opened. After such expiration such color shall be considered to be from a batch that has not been certified except that such color shall not be so considered when the package is opened; (1) and such color is used, subject to the restrictions prescribed by paragraphs (f), (g), and (h) of this section, in coloring a food, drug, or cosmetic; (2) for the purpose of certifying a batch made by repacking such color; or (3) for the purpose of certifying a batch of a mixture in which such color is used as an ingredient.

(e) A certificate shall not be effective with respect to a package of color additive and such color shall be considered to be from a batch that has not been certified if such package is shipped or delivered under a label which does not bear all words, statements, and other information required by § 8.32 to appear thereon.

(f) A certificate shall not be effective with respect to a package of color additive, and such color shall be considered to be from a batch that has not been certified if: (1) Such package has not been sealed in accordance with § 8.31; (2) such package has been sealed in accordance with § 8.31 and the seal has been broken, intentionally or accidentally, unless such seal has been broken for the purpose of using color in accordance with § 8.25, or, such package has been opened by a duly authorized representative of the Administration or Department in the performance of his official duties, and he has immediately resealed the package in conformance with § 8.31.

(g) A certificate shall not be effective with respect to a package of color additive and such color shall be considered to be from a batch that has not been certified if such color is used in any manner other than that for which it was certified.

(h) When the listing or the specifications for a color additive are revoked or amended, the final order effecting the revocation or amendment may specify,

in addition to its own effective date, a date on which all certificates for existing batches and portions of batches of such a color additive theretofore issued under such revoked or amended regulations shall cease to be effective; and any such lots of the color shall be regarded as uncertified after the date specified unless a new certificate can be and is obtained in conformance with the new regulations. When a certificate thus ceases to be effective for a color additive, any certificates previously issued for a color mixture containing that color shall cease to be effective on the same date. Use of such color or color mixture after such specified date without the new certificate in preparing food, drugs, or cosmetics will result in such food, drugs, or cosmetics being adulterated. When a certified color additive has been used in food, drugs, or cosmetics and the status of the color is thereafter changed by amendment of revocation of its listing or specification regulations, such food, drugs, and cosmetics will not be regarded as adulterated by reason of the use of such color, unless the hazard to health is such that existing stocks of the colored foods, drugs, or cosmetics cannot be safely used, in which cases findings to that effect will be made and regulations appropriate for such special cases will be issued.

#### § 8.30 Color additive mixtures that may be certified.

(a) *Color additive mixtures for use in food.* A batch of color additive mixture which contains one or more straight colors listed in Subpart C, E, or G of this part may be certified for use in food, subject to such restrictions as are prescribed in Subparts A and B, if:

(1) Each color additive used as an ingredient in such batch is from a previously certified batch, and such color has not changed in composition in any manner whatsoever since previous certification, except by mixing into such batch of mixture.

(2) Each diluent in such batch of mixture is from the following list:

|                         |                             |
|-------------------------|-----------------------------|
| Sodium chloride (salt). | Olive oil.                  |
| Water.                  | Peanut oil.                 |
| Ethanol.                | Corn oil.                   |
| Propylene glycol.       | Cottonseed oil.             |
| Glycerin.               | Hydrogenated vegetable oil. |
| Glucose.                | Citric acid.                |
| Sucrose.                | Tartaric acid.              |
| Lactose.                | Malic acid.                 |
| Sorbitol.               | Phosphoric acid.            |
| Lecithin.               | Tricalcium phosphate.       |
| Starch.                 | Karaya gum.                 |
| Flour.                  |                             |
| Coconut oil.            |                             |

(b) *Color additive mixtures for use in coloring shell eggs.* A batch of color additive which contains one or more straight colors listed in Subpart C of this part may be certified for external application to shell eggs, if:

(1) Each color additive used as an ingredient in such batch is from a previously certified batch, and such color has not changed in composition in any manner whatsoever since previous certification, except by mixing into such batch of mixture.

(2) Each diluent contained in such batch of mixture is safe for use on shell eggs.

(c) *Color additive mixtures for use in coloring drugs.* A batch of color additive mixture which contains one or more straight colors listed in Subpart E may be certified for use in drugs, subject to such restrictions as are prescribed in Subparts A and B of this part, if:

(1) Each color additive used as an ingredient in such batch is from a previously certified batch and such color has not changed in composition in any manner whatsoever since previous certification, except by mixing into such batch of mixture.

(2) Each diluent contained in such batch of mixture is safe for use in drugs.

(d) *Color additive mixtures for use in coloring cosmetics.* A batch of color additive mixture which contains one or more straight colors listed in Subpart G may be certified for use in cosmetics, subject to such restrictions as are prescribed in Subparts A and B of this part, if:

(1) Each color additive used as an ingredient in such batch is from a previously certified batch and such color has not changed in composition in any manner whatsoever since previous certification except by mixing into such batch of mixture.

(2) Each diluent contained in such batch of mixture is safe for use in cosmetics.

#### § 8.31 Packaging requirements for color additives (other than hair dyes).

Color additives shall be packaged in containers which prevent changes in composition. Packages shall be sealed so that they cannot be opened without breaking the seal. An unavoidable change in moisture content caused by the ordinary and customary exposure that occurs in good storage, packing, and distribution practice is not considered a change in composition.

#### § 8.32 Labeling requirements for color additives (other than hair dyes).

(a) *General labeling requirements.* All color additives shall be labeled with sufficient information to assure their safe use and to allow a determination of compliance with any limitations imposed by Subparts A and B of this part. Labels for color additives shall state:

(i) The name of the color additive, as listed in Subpart C, E, or G of this part, if it is a straight color, or the name of each ingredient comprising the color additive, if it is a mixture.

(ii) A statement indicating general limitations for the use of the color additive, such as "for food use only"; "for food, drug, and cosmetic use"; "for use in drugs for external application only."

(iii) The amount of each color in terms of weight per unit volume or percent by weight.

(iv) An expiration date if stability data require it.

(b) *Special labeling for color additives with tolerances.* Where tolerances are imposed for a general or specific use of the color additives by Subparts C, E,



and G, of this part the label shall in addition provide directions for use of the additive which if followed will preclude the food, drug, or cosmetic to which it is added from containing an amount of the color additive in excess of the tolerance.

(c) *Special labeling for color additives with other limitations.* If use of the color additive is subject to other limitations prescribed in this part, such limitations shall be stated on the label of the color additive by a plain and conspicuous statement. Examples of such limitation statements are: "Do not use in products used in the area of the eye"; "Do not use for coloring drugs for injection."

(d) *Special labeling for color additives not exempt from certification.* Color additives not exempt from the certification procedures shall in addition include in the labeling the lot number assigned by the Color Certification Branch, except that in the case of any mixture for household use which contains not more than 5 percent of pure color and which is in packages containing not more than one ounce there appears on the label, a code number which the manufacturer has identified with the lot number by giving to the Food and Drug Administration written notice that such code number will be used in lieu of the lot number.

### § 8.33 Exemption of color additives for investigational use.

A color additive, or a food, drug, or cosmetic containing such an additive, intended for investigational use by qualified experts, shall be exempt from the requirements of sections 402(c), 501(a), or 601(e) of the act, whichever is applicable, provided that the color additive or the food, drug, or cosmetic containing the additive bears a label which states prominently, "Caution—Contains new color additive—For investigational use only."

### § 8.34 Safety factors to be considered.

In accordance with section 706(b)(5)(A)(iii) of the act, the following safety factor will be applied in determining whether the proposed use of a color additive will be safe: Except where evidence is submitted which justifies use of a different safety factor, a safety factor of 100 to 1 will be used in applying animal experimentation data to man; that is, a color additive for use by man will not be granted a tolerance that will exceed 1/100th of the maximum no-effect level for the most susceptible experimental animals.

### § 8.35 General principles of evaluating the safety of color additives.

(a) In reaching a decision on any petition filed under section 706 of the act, the Commissioner will give full consideration to the specific biological properties of the color additive and the adequacy of the methods employed to demonstrate its safety for the proposed use. When considering color additives for food, for drugs, and for cosmetic uses that involve ingestion, the Commissioner will be guided by the principles

and procedures for establishing the safety of food additives provided in current publications of the National Academy of Sciences-National Research Council. A petition will not be denied, however, by reason of the petitioner's having followed procedures other than those outlined in the publications of the National Academy of Sciences-National Research Council if, from available evidence, the Commissioner finds that the procedures used give results as reliable as, or more reliable than, those reasonably to be expected from the use of the outlined procedures. In reaching a decision, the Commissioner will give due weight to all levels and patterns of consumption of the additive specified or reasonably to be anticipated. For the purposes of this section, the principles for evaluating safety of additives set forth in the above-mentioned publications will apply to any substance that may properly be classified as a color additive as defined in section 201(t) of the act.

(b) The safety for external color additives shall be determined by tests for acute oral toxicity, primary irritation, sensitization, subacute dermal toxicity on intact and abraded skin, and carcinogenicity by skin application.

(c) Upon written request describing the proposed use of an additive and the proposed experiments to determine its safety, the Commissioner will advise a person who wishes to establish the safety of a color additive whether he believes the experiments planned will yield data adequate for an evaluation of the safety of the additive.

### § 8.36 Application of the anti-cancer clause of section 706 of the act.

(a) *Color additives that may be ingested.* Whenever the scientific data before the Commissioner (either the reports from the scientific literature or the results of biological testing) suggest the possibility that the color additive or any of its components or impurities has induced cancer when ingested by man or animal, the Commissioner shall determine whether, based on the best judgment of appropriately qualified scientists, cancer has been induced and whether the color additive or any of its components or impurities was the causative substance. If it is his best judgment that the data do not establish these facts, the anti-cancer clause is not applicable; and if the data considered as a whole establish that the color additive will be safe under the conditions that can be specified in the regulation, it may be listed for such use. But if, in the best judgment of the Commissioner, based on information from qualified scientists, cancer has been induced by ingestion, no regulation may issue which permits its use.

(b) *Color additives that will not be ingested.* Whenever the scientific data before the Commissioner suggest the possibility that the color additive or any of its components or impurities has induced cancer in man or animals by routes other than ingestion, the Commissioner shall determine whether, based on the best judgment of appropriately qualified scientists, the test suggesting

the possibility of carcinogenesis is appropriate for the evaluation of the color additive for a use which does not involve ingestion, cancer has been induced, and the color additive or any of its components or impurities was the causative substance. If it is his best judgment that the data do not establish these facts, the anti-cancer clause is not applicable to preclude external drug and cosmetic uses, and if the data as a whole establish that the color additive will be safe under conditions which can be specified in the regulations, it may be listed for such use. But, if, in the best judgment of the Commissioner based on information from qualified scientists the test is an appropriate one for the consideration of safety for the proposed external use, and cancer has been induced by the color additive or any of its components or impurities, no regulation may issue which permits its use in external drugs and cosmetics.

### § 8.50 Fees.

(a) Each petition or request for the listing of a color additive shall be accompanied by a deposit of \$3,000.00 if the proposal is for listing the color additive for use generally in or on foods, in or on drugs, and in or on cosmetics.

(b) If the petition or request for the listing is for use in or on foods only, the deposit shall be \$3,000.00.

(c) If the petition or request for the listing is for use in or on drugs and/or cosmetics only, the deposit shall be \$2,600.00.

(d) The provisions of paragraphs (a), (b), and (c) of this section shall be applicable, whether or not the proposal contemplates any tolerances, limitations, or other restrictions placed upon the use of the color additive.

(e) If a petition or request proposing the issuance of a regulation is withdrawn before it is finally accepted for filing, the deposit, less a \$600.00 fee for clerical handling and administrative and technical review, shall be returned to the petitioner.

(f) If a petition or a request proposing the issuance of a regulation is withdrawn within 30 days after filing, the deposit, less \$1,800, if the petition is covered by paragraph (a) or (b), and less \$1,600.00, if the petition is covered by paragraph (c), shall be returned to the petitioner.

(g) When a petition is withdrawn after filing and resubmitted within 6 months, it shall be accompanied by a deposit of \$1,800.00 for a petition filed under paragraph (a) or (b), and \$1,600.00 for a petition filed under paragraph (c) of this section. If a petition is resubmitted after 6 months, it shall be accompanied by the deposit that would be required if it were being submitted for the first time.

(h) When the resubmission pertains to a petition that had been withdrawn before acceptance for filing, a new advance deposit shall be made in full as prescribed in paragraph (a), (b), or (c) of this section.

(i) After a color has been listed, any request for an amendment or additional tolerance shall be accompanied by a



deposit of \$1,800.00 for use in the items specified in paragraphs (a) and (b) of this section, or \$1,600.00 for use in items specified in paragraph (c) of this section.

(j) Objections and request for public hearing under section 706(d) or 203(d) (2) (C) of the act shall be accompanied by a filing fee of \$250.00.

(k) In the event of a referral of a petition under this section to an advisory committee, all costs related thereto (including personal compensation of committee members, travel materials, and other costs) shall be borne by the person or organization requesting the referral, such costs to be assessed on the basis of actual cost to the Government: *Provided*, That the compensation of such costs shall include personal compensation of advisory committee members at a rate not to exceed \$75.00 per member per day.

(l) In the case of requests of referrals to advisory committees, a special advance deposit shall be made in the amount of \$2,500.00. Where required, further advance in increments of \$2,500.00 each shall be made upon request of the Commissioner of Food and Drugs. All deposits for referrals to advisory committees in excess of actual expenses shall be refunded to the depositor.

(m) All requests for pharmacological or other scientific studies shall be accompanied by an advance deposit of \$5,000.00. Further advance deposits shall be made upon request of the Commissioner of Food and Drugs when necessary to prevent arrears in such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(n) The person who files a petition for judicial review of an order under section 706(d) of the act shall pay the costs of preparing a transcript of the record on which the order is based.

(o) All deposits and fees required by the regulations in this section shall be paid by money order, bank draft, or certified check drawn to the order of the Food and Drug Administration, collectible at par at Washington, D.C. All deposits and fees shall be forwarded to the Food and Drug Administration, Department of Health, Education, and Welfare, Washington 25, D.C., whereupon after making appropriate record thereof they will be transmitted to the Treasurer of the United States for deposit in the special account "Certification, Inspection, and Other Services, Food and Drug Administration."

(p) The Commissioner of Food and Drugs may waive or refund such fees in whole or in part when in his judgment such action will promote the public interest.

(q) Any person who believes that payment of these fees will work a hardship on him may petition the Commissioner

of Food and Drugs to waive or refund the fees.

### Subpart B—General Specifications and General Restrictions for Color Additives for Use in Foods, Drugs, and Cosmetics

#### § 8.101 General restrictions on use of color additives.

(a) *Color additives for use in the area of the eye.* (1) No listing or certification of a color additive shall, except as provided by subparagraph (2) of this paragraph, be considered to authorize the use of any color additive in any article intended for use in the area of the eye. A color additive used or any such article that is applied to the area of the eye, except as provided by subparagraph (2) of this paragraph, shall be considered to be a color additive not listed under Subparts D and E, even though such color is certified and/or listed for other uses.

(2) Color additives, if listed and certified or exempted from certification for such uses, pursuant to specifications in this part, may be used in the area of the eye for the following purposes:

(i) For absorbable and nonabsorbable ophthalmological suture material.

(ii) Eye shadow.

[Paragraph (b) reserved]

Dated: January 16, 1961.

[SEAL] GEO. P. LARRICK,  
Commissioner of Food and Drugs.

[F.R. Doc. 61-556; Filed, Jan. 23, 1961;  
8:47 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

### [ 47 CFR Part 3 ]

[Docket No. 13860; RM-199]

### TELEVISION BROADCAST STATION, SUPERIOR, NEBR.; TABLE OF ASSIGNMENTS

#### Order Extending Time for Filing Reply Comments

In the matter of amendment of § 3.606, Table of Assignments, Television Broadcast Stations (Superior, Nebraska).

The Commission has before it for consideration a petition filed by Bi-States Company, licensee of Stations KHOL-TV, Kearney, Nebraska, and KHPL-TV, Hayes Center, Nebraska, requesting a 30-day extension of time to February 17, 1961, for the filing of reply comments in the above-entitled matter. Petitioner states that the additional time is necessary for careful study and analysis of the extensive comments filed by parties in this proceeding.

It appears that good cause has been shown for the request of extension of time and that public interest would be served by granting the requested extension.

In view of the foregoing, *It is ordered*, This 13th day of January 1961, that the request of Bi-States Company for extension of time is granted and that the time for filing reply comments in this proceeding is extended to February 17, 1961.

Released: January 16, 1961.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 61-592; Filed, Jan. 23, 1961;  
8:51 a.m.]

## INTERSTATE COMMERCE COMMISSION

### [ 49 CFR Part 10 ]

[No. 32153]

### UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

#### Rearrangement and Revision in General Accounting Instructions and Related Matters

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 2d day of December A.D. 1960.

Having under consideration certain amendments of the Uniform System of Accounts for Railroad Companies pursuant to the provisions of section 20 of the Interstate Commerce Act, as amended (24 Stat. 386, 54 Stat. 917, 49 U.S.C. 20(3)), and the notice of proposed rule making published in the FEDERAL REGISTER, October 28, 1960 (25 F.R. 10358), which provided that said amendments shall become effective January 1, 1961 unless otherwise ordered by the Commission, and good cause appearing;

*It is ordered*, That the changes proposed in the notice of rule making referred to above are hereby deferred until the further order of the Commission; and,

*It is further ordered*, That notice be given the general public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] HAROLD D. McCoy,  
Secretary.

[F.R. Doc. 61-573; Filed, Jan. 23, 1961;  
8:48 a.m.]



# Notices

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### CHRISTIANSTED NATIONAL HISTORIC SITE

##### Designation Order Changing Name of Virgin Islands National Historic Site and Superseding Designation Order of March 4, 1952

Whereas, the Congress of the United States has declared it to be a national policy to preserve for the public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States; and

Whereas, the Advisory Board on National Parks, Historic Sites, Buildings and Monuments, has declared that the Wharf area and its buildings and the park area known as the D. Hamilton Jackson Park and the Government House and grounds in Christiansted, St. Croix Island, Virgin Islands, are of national historical significance as an excellent example of the old Danish economy and way of life in the Virgin Islands; and

Whereas, the buildings in this area have effectively resisted the impact of time and man and represent a segment of America's cultural heritage in historic sites and buildings; and

Whereas, a Memorandum of Agreement was entered into on February 11, 1952, by and between the United States of America and the municipality of St. Croix, Virgin Islands, providing for the preservation of these historic structures and grounds in Christiansted, St. Croix Island, Virgin Islands, as shown on Map VI-NHS-7000 (on file in the National Park Service, Washington, D.C.), pursuant to authority contained in the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C., secs. 461 et seq.; and

Whereas, the Secretary of the Interior on March 4, 1952, designated these historic structures and grounds in Christiansted, St. Croix Island, Virgin Islands, as the Virgin Islands National Historic Site under authority contained in the said Act of August 21, 1935; and

Whereas, the National Park Service and the Office of Territories, recognizing the need for clarification and interpretation of the aforesaid Memorandum of Agreement of February 11, 1952, have executed a supplemental Memorandum of Agreement concerning the preservation and utilization of these historic properties, which was approved by the Secretary of the Interior on December 24, 1960; and

Whereas, the Memorandum of Agreement approved December 24, 1960, recognizes that confusion might result from the similarity in names of the Virgin Islands National Historic Site and the recently established Virgin Islands

National Park and recommends that a new Order of Designation be issued changing the name of the Virgin Islands National Historic Site and superseding the Order of March 4, 1952;

Now, therefore, I, Fred A. Seaton, Secretary of the Interior, by virtue of and pursuant to authority contained in the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C., secs. 461 et seq.), do hereby designate the historic structures and grounds in Christiansted, St. Croix Island, Virgin Islands, heretofore known as the Virgin Islands National Historic Site, as the Christiansted National Historic Site. The Designation Order of March 4, 1952, is hereby superseded.

The administration, protection, and development of this national historic site shall be exercised in accordance with the provisions of the above-mentioned cooperative agreement and the said Act of August 21, 1935.

Warning is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this historic site.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of the Interior to be affixed at the City of Washington, this 16th day of January 1961.

[SEAL]

FRED A. SEATON,  
Secretary of the Interior.

[F.R. Doc. 61-554; Filed, Jan. 23, 1961;  
8:46 a.m.]

## DEPARTMENT OF AGRICULTURE

### Commodity Stabilization Service

#### MARKETING QUOTA REVIEW COMMITTEE PANELS

##### Notice of Establishment of Areas of Venue

Pursuant to section 3(a) (1) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1002) which requires that the field organization be published in the FEDERAL REGISTER and § 711.12 of the Marketing Quota Review Regulations (25 F.R. 6505) which provides for establishment of areas of venue for marketing quota review committee panels, notice is hereby given of areas of venue established by ASC State Committees effective January 1, 1961, as listed herein. This notice supersedes previous notices respecting areas of venue (24 F.R. 1320, 2409; 25 F.R. 87, 362).

#### ALABAMA

##### Counties of:

Area I—Blount, Cherokee, DeKalb, Etowah, Jackson, Marshall.  
Area II—Cullman, Limestone, Madison, Morgan.  
Area III—Colbert, Franklin, Lauderdale, Lawrence.  
Area IV—Fayette, Jefferson, Marion, Lamar, Walker, Winston.

Area V—Calhoun, Chambers, Clay, Cleburne, Coosa, Randolph, St. Clair, Talladega, Tallapoosa.

Area VI—Autauga, Bibb, Chilton, Dallas, Shelby, Tuscaloosa.

Area VII—Greene, Hale, Marengo, Perry, Pickens, Sumter.

Area VIII—Elmore, Lee, Lowndes, Macon, Montgomery, Russell.

Area IX—Bullock, Butler, Covington, Crenshaw, Pike.

Area X—Barbour, Coffee, Dale, Geneva, Henry, Houston.

Area XI—Baldwin, Choctaw, Mobile, Washington.

Area XII—Clarke, Conecuh, Escambia, Monroe, Wilcox.

#### ALASKA

None.

#### ARIZONA

Area—Entire State.

#### ARKANSAS

##### Counties of:

Area I—Jackson, Lawrence, Poinsett, White.  
Area II—Crittenden, Cross, Lee, Lonoke, Monroe, Phillips, Prairie, St. Francis, Woodruff.

Area III—Calhoun, Clark, Columbia, Dallas, Grant, Hempstead, Hot Spring, Lafayette, Miller, Nevada, Ouachita, Union.

Area IV—Benton, Boone, Carroll, Conway, Crawford, Franklin, Johnson, Madison, Newton, Pope, Sebastian, Washington.

Area V—Baxter, Cleburne, Faulkner, Fulton, Independence, Izard, Marion, Pulaski, Searcy, Sharp, Stone, Van Buren.

Area VI—Arkansas, Ashley, Bradley, Chicot, Cleveland, Desha, Drew, Jefferson, Lincoln.

Area VII—Garland, Howard, Little River, Logan, Montgomery, Perry, Pike, Polk, Saline, Scott, Sevier, Yell.

Area VIII—Clay, Craighead, Greene, Mississippi, Randolph.

#### CALIFORNIA

##### Counties of:

Area I—Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity.

Area II—Contra Costa, Lake, Marin, Mendocino, Napa, Solano, Sonoma.

Area III—Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Inyo, Mono, Nevada, Placer, Sacramento, Sutter, Yolo, Yuba.

Area IV—Madera, Mariposa, Merced, San Joaquin, Stanislaus, Tuolumne.

Area V—Alameda, Monterey, San Benito, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz.

Area VI—Fresno, Kern, Kings, Tulare.

Area VII—Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Ventura.

#### COLORADO

##### Counties of:

Area I—Cheyenne, Kit Carson, Lincoln, Logan, Phillips, Sedgwick, Washington, and Yuma.

Area II—Adams, Arapahoe, Boulder, Douglas, Elbert, Jefferson, Larimer, Morgan, Park, and Weld.

Area III—Baca, Bent, Chaffee, Crowley, Custer, El Paso, Fremont, Huerfano, Kiowa, Las Animas, Otero, Prowers, Pueblo, and Teller.

Area IV—Alamosa, Archuleta, Conejos, Costilla, Dolores, La Plata, Montezuma, Rio Grande, and Saguache.



Area V—Delta, Eagle, Garfield, Grand, Gunnison, Jackson, Mesa, Moffat, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel.

## CONNECTICUT

Counties of:

Area I—Hartford, Litchfield, Middlesex, Tolland.

## DELAWARE

Area—Entire State.

## FLORIDA

Counties of:

Area I—Alachua, Baker, Clay, Columbia, Duval, Gilchrist, Hendry, Hillsborough, Lake, Levy, Marion, Nassau, Orange, Palm Beach, Polk, Putnam, Seminole, St. Johns, Sumter, Union, Volusia.

Area II—Bradford, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor.

Area III—Calhoun, Gadsden, Gulf, Jackson, Jefferson, Leon, Liberty, Wakulla.

Area IV—Bay, Escambia, Holmes, Okaloosa, Santa Rosa, Walton, Washington.

## GEORGIA

Counties of:

Area I—Banks, Bartow, Catoosa, Chattooga, Cherokee, Dade, Dawson, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Habersham, Hall, Hart, Lumpkin, Murray, Pickens, Rabun, Stephens, Towns, Union, Walker, White, Whitfield.

Area II—Carroll, Clayton, Cobb, Coweta, Crawford, DeKalb, Douglas, Fayette, Fulton, Haralson, Harris, Heard, Henry, Lamar, Meriwether, Muscogee, Paulding, Peach, Pike, Polk, Spalding, Talbot, Taylor, Troup, Upson.

Area III—Baker, Calhoun, Chattahoochee, Clay, Crisp, Decatur, Dooley, Dougherty, Early, Grady, Lee, Macon, Marion, Miller, Mitchell, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Terrell, Thomas, Webster.

Area IV—Baldwin, Barrow, Bibb, Butts, Clarke, Elbert, Greene, Gwinnett, Hancock, Jackson, Jasper, Jones, Madison, Morgan, Monroe, Newton, Oconee, Oglethorpe, Putnam, Rockdale, Taliaferro, Walton, Wilkes.

Area V—Ben Hill, Berrien, Bleckley, Brooks, Colquitt, Cook, Dodge, Houston, Irwin, Laurens, Lowndes, Montgomery, Pulaski, Telfair, Tift, Treutlen, Turner, Twiggs, Wheeler, Wilcox, Wilkinson, Worth.

Area VI—Bryan, Bulloch, Burke, Candler, Chatham, Columbia, Effingham, Emanuel, Evans, Glascock, Glynn, Jefferson, Jenkins, Johnson, Liberty, Lincoln, Long, McDuffie, McIntosh, Richmond, Screven, Tattnall, Toombs, Warren, Washington.

Area VII—Appling, Atkinson, Bacon, Brantley, Camden, Charlton, Clinch, Coffee, Echols, Lanier, Jeff Davis, Pierce, Ware, Wayne.

## HAWAII

None.

## IDAHO

Counties of:

Area I—Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Teton.

Area II—Bannock, Blaine, Butte, Camas, Cassia, Custer, Gooding, Jerome, Lemhi, Lincoln, Minidoka, Power, Twin Falls.

Area III—Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington.

Area IV—Clearwater, Idaho, Lewis, Nez Perce.

Area V—Benewah, Bonner, Boundary, Kootenai, Latah.

## ILLINOIS

Counties of:

Area I—Boone, DeKalb, JoDaviess, Ogle, Stephenson, and Winnebago.

Area II—Cook, DuPage, Kane, Lake, and McHenry.

Area III—Bureau, Carroll, Henry, Lee, Stark, and Whiteside.

Area IV—Henderson, Knox, Mercer, Rock Island, and Warren.

Area V—Grundy, Kankakee, Kendall, La Salle, Livingston, and Will.

Area VI—McLean, Marshall, Peoria, Putnam, Tazewell, and Woodford.

Area VII—Adams, Brown, Fulton, Hancock, McDonough, and Schuyler.

Area VIII—Cass, Mason, Menard, Morgan, and Scott.

Area IX—De Witt, Logan, Macon, Piatt, and Sangamon.

Area X—Champaign, Douglas, Edgar, Ford, Iroquois, and Vermilion.

Area XI—Calhoun, Greene, Jersey, Macoupin, Montgomery, and Pike.

Area XII—Bond, Clinton, Madison, Monroe, St. Clair, and Washington.

Area XIII—Christian, Clay, Effingham, Fayette, Moultrie, and Shelby.

Area XIV—Clark, Coles, Crawford, Cumberland, and Jasper.

Area XV—Gallatin, Hamilton, Jefferson, Marion, Saline, and Wayne.

Area XVI—Edwards, Lawrence, Richland, Wabash, and White.

Area XVII—Franklin, Jackson, Perry, Randolph, Union, and Williamson.

Area XVIII—Alexander, Hardin, Johnson, Massac, Pope, and Pulaski.

## INDIANA

Counties of:

Area I—Benton, Elkhart, Jasper, Kosciusko, Lake, La Porte, Marshall, Newton, Porter, St. Joseph, Starke.

Area II—Adams, Allen, Blackford, De Kalb, Grant, Huntington, Jay, Lagrange, Noble, Steuben, Wells, Whitley.

Area III—Carroll, Cass, Clinton, Fulton, Howard, Miami, Pulaski, Tippecanoe, Tip-ton, Wabash, White.

Area IV—Boone, Fountain, Hamilton, Hendricks, Marion, Montgomery, Parke, Putnam, Vermillion, Vigo, Warren.

Area V—Decatur, Delaware, Fayette, Franklin, Hancock, Henry, Madison, Randolph, Rush, Shelby, Union, Wayne.

Area VI—Bartholomew, Brown, Clay, Greene, Johnson, Lawrence, Martin, Monroe, Morgan, Orange, Owen, Sullivan.

Area VII—Clark, Dearborn, Floyd, Harrison, Jackson, Jefferson, Jennings, Ohio, Ripley, Scott, Switzerland, Washington.

Area VIII—Crawford, Daviess, Dubois, Gibson, Knox, Perry, Pike, Posey, Spencer, Vanderburgh, Warrick.

## IOWA

Counties of:

Area I—Adair, Adams, Audubon, Buena Vista, Calhoun, Carroll, Cass, Cherokee, Clarke, Clay, Crawford, Decatur, Dickinson, Emmet, Fremont, Greene, Hancock, Harrison, Humboldt, Ida, Kossuth, Lyon, Mills, Monona, Montgomery, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, East Pottawattamie, West Pottawattamie, Ringgold, Sac, Shelby, Sioux, Taylor, Union, Webster, Winnebago, Woodbury, and Wright.

Area II—Allamakee, Appanoose, Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

## KANSAS

Counties of:

Area I—Cheyenne, Decatur, Rawlins, Sheridan, Sherman, Thomas.

Area II—Gove, Greeley, Logan, Scott, Wallace, Wichita.

Area III—Grant, Hamilton, Kearny, Morton, Stanton, Stevens.

Counties of:

Area I—Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

Counties of:

Area I—Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

Counties of:

Area I—Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

Counties of:

Area I—Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

Counties of:

Area I—Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

Counties of:

Area I—Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

Counties of:

Area I—Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Guthrie, Hamilton, Hardin, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Polk, Poweshiek, Scott, Story, Tama, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Worth.

Area IV—Finney, Gray, Haskell, Lane, Meade, Seward.

Area V—Clark, Edwards, Ford, Hodgeman, Kiowa, Pawnee.

Area VI—Barber, Comanche, Harper, Kingman, Pratt, Stafford.

Area VII—Barton, Ellis, Ness, Rush, Russell, Trego.

Area VIII—Graham, Norton, Osborne, Phillips, Rooks, Smith.

Area IX—Cloud, Jewell, Lincoln, Mitchell, Ottawa, Republic.

Area X—Dickinson, Ellsworth, Marion, McPherson, Rice, Saline.

Area XI—Cowley, Harvey, Reno, Sedgwick, Sumner.

Area XII—Butler, Chautauqua, Elk, Greenwood, Wilson, Woodson.

Area XIII—Chase, Geary, Lyon, Morris, Wabaunsee.

Area XIV—Clay, Marshall, Nemaha, Pottawatomie, Riley, Washington.

Area XV—Atchison, Brown, Doniphan, Jackson, Jefferson, Leavenworth.

Area XVI—Douglas, Franklin, Johnson, Osage, Shawnee, Wyandotte.

Area XVII—Allen, Anderson, Bourbon, Coffey, Linn, Miami.

Area XVIII—Cherokee, Crawford, Labette, Montgomery, Neosho.

## KENTUCKY

Counties of:

Area I—Ballard, Calloway, Carlisle, Crittenden, Fulton, Graves, Hickman, Livingston, Lyon, McCracken, Marshall, Trigg.

Area II—Breckinridge, Caldwell, Christian, Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Union, Webster.

Area III—Adair, Allen, Barren, Butler, Clinton, Cumberland, Logan, Metcalfe, Monroe, Simpson, Todd, Warren.

Area IV—Anderson, Bullitt, Franklin, Grayson, Hardin, Henry, Jefferson, Meade, Nelson, Oldham, Shelby, Spencer.

Area V—Boyle, Casey, Edmonson, Garrard, Green, Hart, Larue, Lincoln, Marion, Mercer, Taylor, Washington.

Area VI—Bell, Clay, Harlan, Jackson, Knox, Laurel, McCreary, Pulaski, Rockcastle, Russell, Wayne, Whitley.

Area VII—Boyd, Breathitt, Floyd, Johnson, Knott, Lawrence, Leslie, Letcher, Magoffin, Martin, Perry, Pike.

Area VIII—Clark, Estill, Fayette, Jessamine, Lee, Madison, Menifee, Montgomery, Morgan, Owsley, Powell, Wolfe.

Area IX—Bath, Bourbon, Carter, Elliott, Fleming, Greenup, Harrison, Lewis, Mason, Nicholas, Robertson, Rowan.

Area X—Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, Pendleton, Scott, Trimble, Woodford.

## LOUISIANA

Parishes of:

Area I—Bienville, Bossier, Caddo, Calborne, DeSoto, Jackson, Lincoln, Red River, Union, Webster.

Area II—Caddwell, Concordia, East Carroll, Franklin, Madison, Morehouse, Richland, Tensas, West Carroll, Ouachita.

Area III—Avoyelles, Beauregard, Catahoula, Grant, LaSalle, Natchitoches, Rapides, Sabine, Vernon, Winn.

Area IV—Acadia, Allen, Calcasieu, Cameron, Evangeline, Jefferson Davis, Lafayette, St. Landry, St. Martin, Vermilion.

Area V—East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Tammany, Tangipahoa, Washington, West Baton Rouge, West Feliciana.

Area VI—Ascension, Assumption, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John, St. Mary, Terrebonne, St. James.

## MAINE

None.



MARYLAND

Counties of:  
 Area I—Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, Washington.  
 Area II—Baltimore, Cecil, Harford, Kent, Queen Annes.  
 Area III—Caroline, Dorchester, Somerset, Talbot, Wicomico, Worcester.  
 Area IV—Calvert, Charles, St. Marys.  
 Area V—Anne Arundel, Prince Georges.

MASSACHUSETTS

Area—Entire State.

MICHIGAN

Counties of:  
 Area I—Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft.  
 Area II—Alcona, Alpena, Antrim, Arenac, Charlevoix, Cheboygan, Crawford, Emmet, Iosco, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle.  
 Area III—Benzie, Clare, Gladwin, Grand Traverse, Lake, Leelanau, Manistee, Mason, Missaukee, Osceola, Roscommon, Wexford, Kalkaska.  
 Area IV—Gratiot, Ionia, Isabella, Kent, Mecosta, Midland, Montcalm, Muskegon, Newaygo, Oceana, Ottawa.  
 Area V—Bay, Clinton, Genesee, Saginaw, Shiawassee.  
 Area VI—Huron, Lapeer, St. Clair, Sanilac, Tuscola.  
 Area VII—Livingston, Macomb, Monroe, Oakland, Wayne.  
 Area VIII—Hillsdale, Ingham, Jackson, Lenawee, Washtenaw.  
 Area IX—Barry, Branch, Calhoun, Eaton, St. Joseph.  
 Area X—Allegan, Berrien, Cass, Kalamazoo, Van Buren.

MINNESOTA

Counties of:  
 Area I—Beltrami, Clearwater, Cook, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, West Polk, East Polk, Red Lake, Roseau, South St. Louis, North St. Louis.  
 Area II—Aitkin, Becker, Carlton, Cass, Clay, Crow Wing, Douglas, Grant, Hubbard, Kanabec, Mille Lacs, Morrison, East Otter Tail, West Otter Tail, Pine, Todd, Traverse, Wadena, Wilkin.  
 Area III—Anoka, Benton, Carver, Chisago, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Le Sueur, Mower, Olmsted, Ramsey, Rice, Scott, Sherburne, Steele, Wabasha, Waseca, Washington, Winona, Wright.  
 Area IV—Big Stone, Blue Earth, Brown, Chippewa, Cottonwood, Fairbault, Jackson, Kandiyohi, Lac qui Parle, Lincoln, Lyon, Martin, McLeod, Meeker, Murray, Nicollet, Nobles, Pipestone, Pope, Redwood, Renville, Rock, Sibley, Stearns, Stevens, Swift, Watonwan, Yellow Medicine.

MISSISSIPPI

Counties of:  
 Area I—Alcorn, Benton, Itawamba, Lafayette, Lee, Marshall, Pontotoc, Prentiss, Tippah, Tishomingo, and Union.  
 Area II—Calhoun, Carroll, Chickasaw, Choctaw, Clay, Grenada, Lowndes, Monroe, Montgomery, Oktibbeha, Webster, and Yalobusha.  
 Area III—Attala, Kemper, Leake, Neshoba, Noxubee, and Winston.  
 Area IV—Clarke, Jasper, Lauderdale, Newton, Scott, and Smith.  
 Area V—Forrest, George, Greene, Harrison, Hancock, Jackson, Jones, Perry, Stone, and Wayne.  
 Area VI—Covington, Jefferson Davis, Lamar, Lawrence, Marion, Pearl River, Simpson, and Walthall.  
 Area VII—Adams, Amite, Franklin, Lincoln, Pike, and Wilkinson.

Area VIII—Claiborne, Copiah, Hinds, Jefferson, Madison, Rankin, and Warren.  
 Area IX—Holmes, Humphreys, Issaquena, Leflore, Sharkey, Sunflower, Washington, and Yazoo.  
 Area X—Bolivar, Coahoma, DeSoto, Panola, Quitman, Tallahatchie, Tate, and Tunica.

MISSOURI

Counties of:  
 Area I—Caldwell, Carroll, Chariton, Grundy, Jackson, Lafayette, Linn, Livingston, Mercer, Putnam, Ray, Saline, Sullivan.  
 Area II—Adair, Audrain, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Randolph, Schuyler, Scotland, Shelby.  
 Area III—Andrew, Atchison, Buchanan, Clay, Clinton, Daviess, De Kalb, Gentry, Harrison, Holt, Nodaway, Platte, Worth.  
 Area IV—Callaway, Crawford, Franklin, Gasconade, Lincoln, Maries, Montgomery, Osage, Phelps, Pike, St. Charles, St. Louis, Warren.  
 Area V—Bollinger, Carter, Dent, Iron, Jefferson, Madison, Perry, St. Francois, Ste. Genevieve, Shannon, Washington.  
 Area VI—Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Ripley, Scott, Stoddard, Wayne.  
 Area VII—Barry, Christian, Douglas, Greene, Howell, Jasper, Lawrence, McDonald, Newton, Ozard, Stone, Taney, Texas.  
 Area VIII—Barton, Camden, Cedar, Dade, Dallas, Hickory, Laclede, Polk, Pulaski, St. Clair, Vernon, Webster, Wright.  
 Area IX—Bates, Benton, Boone, Cass, Cole, Cooper, Henry, Howard, Johnson, Miller, Moniteau, Morgan, Pettis.

MONTANA

Counties of:  
 Area I—Deer Lodge, Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow.  
 Area II—Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole.  
 Area III—Blaine, Daniels, McCone, Phillips, Richland, Roosevelt, Sheridan, and Valley.  
 Area IV—Beaverhead, Broadwater, Gallatin, Jefferson, Lewis & Clark, Madison, and Meagher.  
 Area V—Carbon, Fergus, Golden Valley, Judith Basin, Park, Stillwater, Sweet Grass, and Wheatland.  
 Area VI—Big Horn, Garfield, Musselshell, Petroleum, Rosebud, Treasure, Yellowstone.  
 Area VII—Carter, Custer, Dawson, Fallon Powder River, Prairie, and Wibaux.

NEBRASKA

Counties of:  
 Area I—Banner, Box Butte, Cheyenne, Dawes, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux.  
 Area II—Arthur, Blaine, Brown, Buffalo, Cherry, Custer, Dawson, Grant, Hooker, Keya Paha, Lincoln, Logan, McPherson, Rock, Thomas.  
 Area III—Boone, Boyd, Garfield, Greeley, Holt, Howard, Loup, Merrick, Nance, Platte, Sherman, Valley, Wheeler.  
 Area IV—Antelope, Burt, Cedar, Cuming, Dakota, Dixon, Knox, Madison, Pierce, Stanton, Thurston, Wayne.  
 Area V—Chase, Deuel, Dundy, Frontier, Garden, Hayes, Hitchcock, Keith, Perkins, Red Willow.  
 Area VI—Adams, Clay, Franklin, Furnas, Gosper, Hall, Hamilton, Harlan, Kearney, Phelps, Webster.  
 Area VII—Butler, Cass, Colfax, Dodge, Douglas, Lancaster, Polk, Sarpy, Saunders, Seward, Washington, York.  
 Area VIII—Fillmore, Gage, Jefferson, Johnson, Nemaha, Nuckolls, Otoe, Pawnee, Richardson, Saline, Thayer.

NEVADA

Counties of:  
 Area I—Clark, Nye.

NEW HAMPSHIRE

None.

NEW JERSEY

Area—Entire State.

NEW MEXICO

Counties of:  
 Area I—Colfax, Curry, De Baca, Guadalupe, Harding, Mora, Quay, Roosevelt, San Miguel, and Union.  
 Area II—Bernalillo, McKinley, Rio Arriba, Sandoval, San Juan, Sante Fe, Taos, Torrance, and Valencia.  
 Area III—Catron, Dona Ana, Grant, Hidalgo, Luna, Sierra, and Socorro.  
 Area IV—Chaves, Eddy, Lea, Lincoln, and Otero.

NEW YORK

Counties of:  
 Area I—Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Cortland, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyoming, Yates.  
 Area II—Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Herkimer, Jefferson, Lewis, Madison, Montgomery, Nassau, Oneida, Orange, Oswego, Otsego, Putnam, Rensselaer, Richmond, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester.

NORTH CAROLINA

Counties of:  
 Area I—Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Swain, Transylvania, Watauga, Yancey.  
 Area II—Alexander, Burke, Cabarrus, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Polk, Rutherford, Stanley, Union, Wilkes.  
 Area III—Anson, Davidson, Davie, Forsyth, Guilford, Montgomery, Randolph, Richmond, Rockingham, Rowan, Stokes, Surry, Yadkin.  
 Area IV—Alamance, Caswell, Chatham, Durham, Franklin, Granville, Harnett, Lee, Moore, Orange, Person, Vance, Wake, Warren.  
 Area V—Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wilson.  
 Area VI—Carteret, Craven, Duplin, Greene, Johnston, Jones, Lenoir, Onslow, Pamlico, Wayne.  
 Area VII—Bladen, Brunswick, Columbus, Cumberland, Hoke, New Hanover, Pender, Robeson, Sampson, Scotland.

NORTH DAKOTA

Counties of:  
 Area I—Burke, Divide, McKenzie, Williams.  
 Area II—McLean, Mountrail, Renville, Ward.  
 Area III—Bottineau, McHenry, Pierce, Rquette, Towner.  
 Area IV—Benson, Eddy, Foster, Sheridan, Wells.  
 Area V—Cavalier, Grand Forks, Pembina, Ramsey, Walsh.  
 Area VI—Griggs, Nelson, Steele, Traill.  
 Area VII—Adams, Billings, Bowman, Golden Valley, Slope.  
 Area VIII—Dunn, Grant, Hettinger, Stark.  
 Area IX—Burlington, Mercer, Morton, Oliver, Sioux.  
 Area X—Emmons, Kidder, Logan, McIntosh.  
 Area XI—Barnes, Dickey, LaMoure, Stutsman.  
 Area XII—Cass, Ransom, Richland, Sargent.

OHIO

Counties of:  
 Area I—Crawford, Erie, Fulton, Henry, Huron, Lucas, Ottawa, Sandusky, Seneca, Wood, Wyandot.



Area II—Ashland, Belmont, Carroll, Coshocton, Harrison, Holmes, Jefferson, Knox, Lorain, Tuscarawas, Wayne.  
 Area III—Ashtabula, Columbiana, Cuyahoga, Geauga, Lake, Mahoning, Medina, Portage, Stark, Summit, Trumbull.  
 Area IV—Defiance, Paulding, Putnam, Van Wert, Williams.  
 Area V—Allen, Auglaize, Hancock, Hardin, Logan, Mercer.  
 Area VI—Champaign, Clark, Delaware, Fayette, Franklin, Madison, Marion, Morrow, Pickaway, Richland, Union.  
 Area VII—Butler, Clermont, Clinton, Darke, Greene, Hamilton, Miami, Montgomery, Preble, Shelby, Warren.  
 Area VIII—Adams, Brown, Gallia, Highland, Jackson, Lawrence, Meigs, Pike, Ross, Scioto, Vinton.  
 Area IX—Athens, Fairfield, Guernsey, Hocking, Licking, Monroe, Morgan, Muskingum, Noble, Perry, Washington.

## OKLAHOMA

## Counties of:

Area I—Beaver, Cimarron, Custer, Dewey, Ellis, Harper, Roger Mills, Texas, Woods, Woodward.  
 Area II—Alfalfa, Garfield, Grant, Kay, Major, Noble, Osage.  
 Area III—Adair, Cherokee, Craig, Delaware, Mayes, Muskogee, Nowata, Okmulgee, Ottawa, Rogers, Tulsa, Wagoner, Washington.  
 Area IV—Blaine, Canadian, Creek, Hughes, Kingfisher, Lincoln, Logan, Okfuskee, Oklahoma, Pawnee, Payne, Pottawatomie, Seminole.  
 Area V—Beckham, Greer, Harmon, Jackson, Kiowa, Tillman, Washita.  
 Area VI—Caddo, Carter, Cleveland, Coal, Comanche, Cotton, Garvin, Grady, Jefferson, Johnston, Love, McClain, Marshall, Murray, Pontotoc, Stephens.  
 Area VII—Atoka, Bryan, Choctaw, Haskell, Latimer, LeFlore, McCurtain, McIntosh, Pittsburg, Pushmataha, Sequoyah.

## OREGON

## Counties of:

Area I—Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, Wheeler.  
 Area II—Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill.

## PENNSYLVANIA

## Counties of:

Area I—Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Somerset, Venango, Warren, Washington, and Westmoreland.  
 Area II—Adams, Berks, Bradford, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.

## RHODE ISLAND

None.

## SOUTH CAROLINA

## Counties of:

Area I—Abbeville, Anderson, Greenville, Greenwood, Laurens, Oconee, Pickens, Spartanburg.  
 Area II—Aiken, Edgefield, Fairfield, Lexington, McCormick, Newberry, Saluda.  
 Area III—Bamberg, Barnwell, Calhoun, Clarendon, Orangeburg, Richland, Sumter.  
 Area IV—Allendale, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper.

Area V—Darlington, Dillon, Florence, Georgetown, Horry, Marion, Marlboro, Williamsburg.  
 Area VI—Cherokee, Chester, Chesterfield, Kershaw, Lancaster, Lee, Union, York.

## SOUTH DAKOTA

## Counties of:

Area I—Butte, Corson, Dewey, Harding, Lawrence, Meade, Perkins, Ziebach.  
 Area II—Bennett, Custer, Fall River, Haakon, Jackson, Jones, Mellette, Pennington, Shannon, Todd, Washabaugh.  
 Area III—Aurora, Bon Homme, Brule, Buffalo, Charles Mix, Douglas, Gregory, Lyman, Tripp, Yankton.  
 Area IV—Clay, Davison, Hanson, Hutchinson, Lincoln, McCook, Moody, Minnehaha, Turner, Union.  
 Area V—Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, Roberts.  
 Area VI—Beadle, Hand, Hyde, Jerauld, Kingsbury, Lake, Miner, Sanborn, Spink.  
 Area VII—Brown, Campbell, Edmunds, Faulk, Hughes, McPherson, Potter, Stanley, Sully, Walworth.

## TENNESSEE

## Counties of:

Area I—Carter, Cocke, Greene, Hamblen, Hawkins, Jefferson, Johnson, Sullivan, Union, Washington.  
 Area II—Anderson, Blount, Campbell, Claiborne, Grainger, Hancock, Knox, Scott, Sevier, Union.  
 Area III—Bradley, Hamilton, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane.  
 Area IV—Bledsoe, Cumberland, De Kalb, Fentress, Overton, Pickett, Putnam, Van Buren, Warren, White.  
 Area V—Bedford, Cannon, Coffee, Franklin, Grundy, Lincoln, Marion, Moore, Rutherford, Sequatchie.  
 Area VI—Clay, Davidson, Jackson, Macon, Robertson, Smith, Sumner, Trousdale, Wilson.  
 Area VII—Giles, Hickman, Lawrence, Lewis, Marshall, Maury, Perry, Wayne, Williamson.  
 Area VIII—Benton, Cheatham, Decatur, Dickson, Henry, Houston, Humphreys, Montgomery, Stewart.  
 Area IX—Chester, Fayette, Hardeman, Hardin, Haywood, McNairy, Madison, Shelby, Tipton.  
 Area X—Carroll, Crockett, Dyer, Gibson, Henderson, Lake, Lauderdale, Obion, Weakley.

## TEXAS

## Counties of:

Area I—Dallas, Hartley, Moore, Sherman.  
 Area II—Hansford, Hutchinson, Lipscomb, Ochiltree.  
 Area III—Armstrong, Carson, Deaf Smith, Oldham, Potter, Randall.  
 Area IV—Gray, Hemphill, Roberts, Wheeler.  
 Area V—Bailey, Castro, Lamb, Farmer.  
 Area VI—Briscoe, Floyd, Hale, Swisher.  
 Area VII—Cochran, Hockley, Terry, Yoakum.  
 Area VIII—Crosby, Garza, Lubbock, Lynn.  
 Area IX—Childress, Collingsworth, Donley, Hall.  
 Area X—Cottle, Dickens, Kent, King, Motley, Stonewall.  
 Area XI—Foard, Hardeman, Wilbarger.  
 Area XII—Baylor, Haskell, Knox, Throckmorton.  
 Area XIII—Collin, Cooke, Denton, Grayson.  
 Area XIV—Delta, Fannin, Hunt, Lamar, Rockwall.  
 Area XV—Dallas, Ellis, Johnson, Kaufman, Tarrant.  
 Area XVI—Bowie, Franklin, Morris, Red River, Titus.  
 Area XVII—Henderson, Hopkins, Rains, Smith, Van Zandt, Wood.  
 Area XVIII—Camp, Cass, Gregg, Harrison, Marion, Upshur.  
 Area XIX—Andrews, Dawson, Gaines, Glasscock, Martin, Midland.

Area XX—Borden, Coke, Howard, Mitchell, Scurry, Sterling.

Area XXI—Fisher, Jones, Nolan, Runnels, Taylor.

Area XXII—Archer, Clay, Wichita, Young.

Area XXIII—Jack, Montague, Parker, Wise.

Area XXIV—Callahan, Eastland, Shackelford, Stephens.

Area XXV—Comanche, Erath, Hood, Palo Pinto, Somervell.

Area XXVI—Bosque, Hill, McLennan, Navarro.

Area XXVII—Bell, Falls, Milam, Williamson.

Area XXVIII—Freestone, Leon, Limestone, Madison, Robertson.

Area XXIX—Anderson, Cherokee, Houston, Rusk.

Area XXX—Angelina, Nacogdoches, Panola, Sabine, San Augustine, Shelby.

Area XXXI—Montgomery, San Jacinto, Trinity, Walker.

Area XXXII—Jasper, Newton, Polk, Tyler.

Area XXXIII—Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler.

Area XXXIV—Crane, Crockett, Ector, Irion, Reagan, Schleicher, Sutton, Tom Green, Upton.

Area XXXV—Brown, Coleman, Concho, McCulloch, San Saba.

Area XXXVI—Blanco, Gillespie, Kimble, Llano, Mason, Menard.

Area XXXVII—Burnet, Coryell, Hamilton, Lampasas, Mills.

Area XXXVIII—Caldwell, Guadalupe, Hays, Travis.

Area XXXIX—Bastrop, Fayette, Lavaca, Lee.

Area XL—Brazos, Burleson, Grimes, Washington.

Area XLI—De Witt, Goliad, Gonzales, Karnes.

Area XLII—Calhoun, Colorado, Jackson, Victoria, Wharton.

Area XLIII—Austin, Brazoria, Fort Bend, Matagorda, Waller.

Area XLIV—Chambers, Galveston, Hardin, Harris, Jefferson, Liberty, Orange.

Area XLV—Bandera, Comal, Edwards, Kendall, Kerr, Real.

Area XLVI—Dimmit, Kinney, Maverick, Uvalde, Val Verde, Zavala.

Area XLVII—Atascosa, Bexar, Frio, La Salle, McMullen, Medina, Willson.

Area XLVIII—Aransas, Bee, Live Oak, Refugio, San Patricio.

Area XLIX—Brooks, Jim Hogg, Webb, Zapata.

Area L—Duval, Jim Wells, Kenedy, Kleberg, Nueces.

Area LI—Cameron, Hidalgo, Starr, Willacy.

## UTAH

Area—Entire State.

## VERMONT

None.

## VIRGINIA

## Counties of:

Area I—Accomack, Amelia, Brunswick, Chesterfield, Dinwiddie, Greenville, Isle of Wight, Nansemond, Norfolk, Northampton, Nottoway, Powhatan, Prince George, Princess Anne, Southampton, Surry, Sussex.  
 Area II—Amherst, Appomattox, Bedford, Botetourt, Buckingham, Campbell, Charlotte, Craig, Cumberland, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nelson, Patrick, Pittsylvania, Prince Edward, Roanoke.  
 Area III—Bland, Buchanan, Carroll, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe.  
 Area IV—Caroline, Charles City, Essex, Flovanna, Gloucester, Goochland, Hampton, Hanover, Henrico, James City, King & Queen, King George, King William, Lancaster, Louisa, Mathews, Middlesex, Newcater, Newport News, Northumberland, Kent, Newport News, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland, York.



Area V—Albermarle, Alleghany, Augusta, Bath, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene, Highland, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockridge, Rockingham, Shenandoah, Warren.

WASHINGTON

Counties of:

Area I—Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman.

Area II—Douglas, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens.

Area III—Adams, Chelan, Grant, Kittitas, Klickitat, Yakima.

WEST VIRGINIA

Counties of:

Area I—Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton, Preston.

Area II—Barbour, Braxton, Calhoun, Gilmer, Lewis, Pocahontas, Randolph, Taylor, Tucker, Upshur, Webster.

Area III—Brooke, Doddridge, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Pleasants, Ritchie, Tyler, Wetzel.

Area IV—Cabell, Jackson, Lincoln, Mason, Mingo, Putnam, Roane, Wayne, Wirt, Wood.

Area V—Boone, Clay, Fayette, Greenbrier, Kanawha, Logan, McDowell, Mercer, Monroe, Nicholas, Raleigh, Summers, Wyoming.

WISCONSIN

Counties of:

Area I—Calumet, Columbia, Dane, Dodge, Fond du Lac, Green, Green Lake, Jefferson, Kenosha, Kewaunee, Manitowish, Marquette, Milwaukee, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, Waushara, Winnebago.

Area II—Adams, Buffalo, Chippewa, Clark, Crawford, Dunn, Eau Claire, Grant, Iowa, Jackson, Juneau, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, Vernon, Wood.

Area III—Ashland, Barron, Bayfield, Brown, Burnett, Door, Douglas, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Oconto, Oneida, Outagamie, Pierce, Polk, Portage, Price, Rusk, St. Croix, Sawyer, Shawano, Taylor, Vilas, Washburn, Waupaca.

WYOMING

Counties of:

Area I—Converse, Goshen, Laramie, Niobrara, Platte.

Area II—Campbell, Crook, Johnson, Sheridan, and Weston.

Area III—Albany, Carbon, Lincoln, Natrona, Sublette, Sweetwater, Teton, Uinta.

Area IV—Big Horn, Fremont, Hot Springs, Park, and Washakie.

PUERTO RICO

Counties of:

Area I—North Area, South Area.

(Sec. 3, 60 Stat. 238; 5 U.S.C. 1002. Interpret or apply sec. 363, 52 Stat. 63, as amended; 7 U.S.C. 1363)

Done at Washington, D.C., this 18th day of January 1961.

CLARENCE D. PALMBY,

Associate Administrator,

Commodity Stabilization Service.

[F.R. Doc. 61-605; Filed, Jan. 23, 1961; 8:52 a.m.]

policy of granting free licenses to all on AEC-owned U.S. patents. The AEC has granted royalty free licenses to U.S. citizens on AEC-owned foreign patents.

The AEC has established a policy of granting licenses for royalties on AEC-owned foreign patents to foreign corporations and foreign nationals in those countries where the foreign government charges royalties of the U.S. Government or U.S. citizens. The AEC will grant free licenses to foreign corporations and foreign nationals where the foreign government does not charge the U.S. Government or U.S. citizens royalties. Where the foreign government does not have an established policy the AEC may or may not charge royalties, depending on what is deemed appropriate in a given situation. This policy is designed to establish a more equitable basis from the standpoint of the treatment of patents for the participation of U.S. industry in foreign atomic energy programs.

The royalty license to be granted by the AEC may be nonexclusive or exclusive for a period of three to five years (subject to free license grants to the U.S. Government and to U.S. nationals). The licensee would be authorized, with AEC approval, to maintain suits on the AEC-owned foreign patents under which such party is licensed. The AEC policy of granting royalty free licenses to U.S. citizens on AEC-owned foreign patents will remain unchanged.

Dated at Germantown, Md., this 13th day of January 1961.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,  
Secretary.

[F.R. Doc. 61-541; Filed, Jan. 23, 1961; 8:45 a.m.]

# COMMISSION CONTRACT POLICY REGARDING FOREIGN PATENTS WITH APPROVED CONTRACT PROVISIONS

## Notice of Adoption of Revision of Contract Policy

The Atomic Energy Commission, after studying comments received as a result of the notice in the FEDERAL REGISTER of August 12, 1960, has approved a foreign patent policy with respect to inventions derived from work performed under Commission contracts in privately owned and operated—as distinguished from government owned and operated—facilities, by authorizing inclusion in applicable contracts of a provision as set forth herein that will be incorporated in AEC Manual Chapter 9113.016.

In recognition that it may be some time before existing contracts are modified, and to assist the Operations Offices to implement the policy, the Commission shall, as to inventions reported by contractors who come within the policy pronouncement, administratively apply the policy immediately to such appropriate contractors, as to:

(1) Inventions reported after the effective date of the policy by according the contractor an opportunity to advise whether contractor desires to file a do-

mestic application and any foreign applications pursuant to the policy;

(2) Inventions previously reported but on which no U.S. applications have yet been filed, by affording the contractor an opportunity to file a domestic application and any foreign applications pursuant to the policy;

(3) Inventions that are already the subject of a U.S. application filed by the contractor and on which the time to file abroad has not yet expired, by affording the contractor an opportunity to file any foreign application deemed advisable by the contractor pursuant to the policy.

The policy is embraced within the following instruction which is substituted for present paragraph b. of AEC Manual Chapter 9113.016:

b. If the contractor work is to be performed at contractor's own facilities (not government or Commission owned or government or Commission contractor operated facilities, or not at contractor's facilities where a major part of the equipment employed in the research and development is government or Commission furnished) and the contractor, when reporting an invention, desires to undertake U.S. and foreign filings so as to acquire an irrevocable, nonexclusive license for all purposes in any U.S. patent resulting therefrom and the title and rights in any resulting foreign patents, subject to the terms and conditions hereinafter provided, the following provisions may be inserted after the word "result" in line 8 of paragraph 1 of each of the foregoing provisions:

*Provided, however,* That if the contractor, when furnishing the complete information as to any invention or discovery advises the Commission that the contractor will file at its own expense, subject to security requirements and regulations, a U.S. Patent application within six (6) months of reporting, and designated foreign patent applications on such invention or discovery, subject to security requirements and regulations, the contractor shall retain:

(1) A nonexclusive, irrevocable, paid-up license for all purposes in any such U.S. patent application filed by the contractor and any U.S. patent issued thereon, and

(2) The title and rights in any such foreign patent applications or foreign patents secured by the contractor, subject to:

(a) A nonexclusive, irrevocable, paid-up license to the U.S. Government for U.S. Governmental purposes and with the right of the U.S. Government to grant licenses to foreign governments for purposes of use by such foreign governments pursuant to a treaty or agreement with the U.S. Government or an agency thereof.

(b) Granting, upon request, nonexclusive, royalty-free licenses to U.S. citizens, and to U.S. corporations when 75 percent or more of the voting interest is owned by U.S. citizens, for use in the production or utilization of special nuclear material or atomic energy; and agreeing to grant to foreign users and purchasers of the product of such a U.S. licensee a license, to use or sell such product to an assignee of the business or plant or as surplus, at a reasonable, non-discriminatory royalty ordinarily to be at no greater royalty than contractor has charged its other foreign licensees.

(c) The right of the contractor to grant such other licenses in accordance with applicable statutes and regulations.

(i) *Provided,* That if the contractor grants any licenses other than as provided in b.,

# ATOMIC ENERGY COMMISSION AEC-OWNED FOREIGN PATENTS Notice of Adoption of Policy To Charge Royalties

The Atomic Energy Commission has followed the traditional Government



above, the same shall be for reasonable royalties or compensation, and

(i) *Provided further*, That if, after five years of the issuance of a particular foreign patent, contractor, its assignee or its licensees cannot demonstrate, upon Commission request, the practical application of the subject matter covered by such foreign patent, the contractor or its assignee shall, at the Commission's request, grant licenses on any such foreign patent to others at reasonable royalties.

(3) If the contractor does not desire to prosecute the U.S. patent application or any foreign application or maintain any foreign patent, the contractor, prior to abandonment, shall afford the Commission an opportunity to take over prosecution of any such patent application or maintain any patent.

This contract policy shall be effective as of January 11, 1961.

For the Atomic Energy Commission.

WOODFORD B. McCool,  
Secretary.

JANUARY 13, 1961.

[F.R. Doc. 61-542; Filed, Jan. 23, 1961;  
8:45 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket 11901]

### ARGONAUT AIRWAYS CORP. ENFORCEMENT PROCEEDING

#### Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on February 1, 1961, at 10:00 a.m., e.s.t., in Room 1029, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Edward T. Stodola.

Dated at Washington, D.C., January 18, 1961.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F.R. Doc. 61-606; Filed, Jan. 23, 1961;  
8:52 a.m.]

[Docket 9900]

### SERVICE TO MARTINSBURG, W. VA.

#### Notice of Postponement of Hearing

In the matter of the application of the City of Martinsburg, West Virginia, for scheduled air service under section 401 of the Federal Aviation Act of 1958, as amended.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding now assigned to be held on February 6, 1961, at 10:30 a.m., e.s.t., in the City Council Chamber, City Hall, Martinsburg, West Virginia, before Examiner Leslie G. Donahue.

Dated at Washington, D.C., January 17, 1961.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F.R. Doc. 61-607; Filed, Jan. 23, 1961;  
8:52 a.m.]

[Docket 11987]

### TASMAN EMPIRE AIRWAYS LTD.

#### Notice of Hearing

In the matter of the application of Tasman Empire Airways Limited of New Zealand for the issue to applicant of a permit authorizing it to engage in foreign air transportation by operating scheduled, non-scheduled and off-route charter services through American Samoa.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on January 24, 1961, at 10:00 a.m., e.s.t., in Room 925, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Richard A. Walsh.

Dated at Washington, D.C., January 18, 1961.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F.R. Doc. 61-608; Filed, Jan. 23, 1961;  
8:52 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 8584; FCC 61M-78]

### BRENNAN BROADCASTING CO.

#### Order Scheduling Hearing

In re application of William J. Brennan, Cyril G. Brennan, and Daniel M. Brennan, doing business as Brennan Broadcasting Company, Jacksonville, Florida, Docket No. 8584, File No. BP-6222, for construction permit.

Pursuant to agreement of counsel arrived at during the prehearing conference held on this date: *It is ordered*, This 17th day of January 1961, that the hearing in the above-styled proceeding will commence at 10 o'clock a.m., on February 1, 1961, in Washington, D.C.

Released: January 18, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 61-593; Filed, Jan. 23, 1961;  
8:51 a.m.]

[Docket Nos. 13887-13890; FCC 61M-75]

### CAPITOL BROADCASTING CORP., INC. (WKXL) ET AL.

#### Order Continuing Hearing

In re applications of Capitol Broadcasting Corporation, Inc. (WKXL), Concord, New Hampshire, Docket No. 13887, File No. BP-12712; Tri-State Area Broadcasting Corporation (WTSA), Brattleboro, Vermont, Docket No. 13888, File No. BP-13126; WMAS, Incorporated (WMAS), Springfield, Massachusetts, Docket No. 13889, File No. BP-13264; Normandy Broadcasting Corporation (WWSC), Glens Falls, New York, Docket

No. 13890, File No. BP-13274; for construction permits.

Pursuant to prehearing conference as of this date: *It is ordered*, This 16th day of January 1961, that there will be a further prehearing conference in this matter on February 13, 1961, 10:00 a.m., at the Commission's offices, Washington, D.C.

*It is further ordered*, That the hearing now scheduled for February 13, 1961, be, and the same is hereby rescheduled for March 6, 10:00 a.m., at the Commission's offices, Washington, D.C.

Released: January 17, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 61-594; Filed, Jan. 23, 1961;  
8:51 a.m.]

[Docket Nos. 13865-13866; FCC 61M-74]

### ARTHUR A. DETERS AND COLLEGE RADIO

#### Statement and Order After Prehearing Conference

In re applications of Arthur A. Deters, Greenfield, Massachusetts, Docket No. 13865, File No. BP-13046; Augustine L. Cavallaro, Jr., tr/as College Radio, Amherst, Massachusetts, Docket No. 13866, File No. BP-14179; for construction permits.

1. A prehearing conference, held on January 13, 1961, was attended by counsel for applicant College Radio, respondent WHIL, and the Broadcast Bureau. Applicant Deters did not attend. Counsel for WHIL, after noting his appearance, announced that respondent did not intend to participate further in the proceeding, and he was excused.

2. Among other things, it was agreed that the affirmative direct cases of the applicants, on all issues, would be in written form.

3. The following schedule will govern: Exchange of written cases—February 24, 1961. Receipt of notification of witnesses desired for cross-examination—March 1, 1961. Hearing—March 7, 1961, at 10 a.m., in the offices of the Commission, Washington, D.C. (rescheduled from February 21, 1961).

*So ordered*, This 16th day of January 1961.

Released: January 17, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 61-595; Filed, Jan. 23, 1961;  
8:51 a.m.]

[Docket No. 13900; FCC 61M-77]

### GENERAL TELEPHONE CO. OF CALIFORNIA

#### Order Scheduling Prehearing Conference

In re application of General Telephone Company of California, Docket No. 13900, File No. 557-02-P-61; for a construction permit to establish a new two-



way common carrier station in the Domestic Public Land Mobile Radio Service at Santa Barbara, California (Station KME440).

Upon the Hearing Examiner's own motion: *It is ordered*, This 17th day of January 1961, that a prehearing conference in the above-entitled proceeding will be held on January 27, 1961, 10:00 a.m., at the Commission's Offices, Washington, D.C.

Released: January 17, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
*Acting Secretary.*

[F.R. Doc. 61-596; Filed, Jan. 23, 1961;  
8:51 a.m.]

[Docket No. 13915]

**R. O'BRIEN & CO.**

### Order To Show Cause

In the matter of R. O'Brien & Company, Boston, Massachusetts, Docket No. 13915; order to show cause why there should not be revoked the license for radio station WB-4437 aboard the vessel "Weymouth".

There being under consideration the matter of certain alleged violations of the Commission's Rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Notice mailed May 19, 1960, alleging non-compliance with § 8.367(a)(1) of the Commission's rules in that a radio station log was not maintained; and

It further appearing that, the above-named licensee received said Official Notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated August 19, 1960, and sent by Certified Mail—Return Receipt Requested (No. 092081), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that, the Commission, on September 21, 1960, by letter sent by Certified Mail—Return Receipt Requested (No. 092358), again brought this matter to the attention of the licensee and warned it that failure to reply to such letter within fifteen days of receipt of such letter would result in the institution of proceedings for the revocation of its radio station license; and

It further appearing that, although the Commission's above-mentioned letters of August 19, 1960, and September 21, 1960, were received by the licensee, no reply thereto has been made; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules:

*It is ordered*, This 13th day of January 1961, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked, and appear and give evidence in respect thereto at a hearing<sup>1</sup> to be held at a time and place to be specified by subsequent order; and

*It is further ordered*, That the Secretary send a copy of this Order to R. O'Brien & Company, Inc., 34 Fish Pier, Boston, Massachusetts, by Certified Mail Return Receipt Requested.

Released: January 16, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
*Acting Secretary.*

[F.R. Doc. 61-598; Filed, Jan. 23, 1961;  
8:51 a.m.]

[Docket No. 13601; FCC 61M-76]

**HOPKINSVILLE BROADCASTING CO.,  
INC. (WHOP)**

### Order Continuing Hearing

In re application of Hopkingsville Broadcasting Company, Incorporated (WHOP), Hopkingsville, Kentucky, Docket No. 13601, File No. BP-12506; for construction permit.

<sup>1</sup> The form attached to this order should be detached and used in connection with the following procedure and sent to the Secretary, Federal Communications Commission, Washington 25, D.C., within 30 days.

Section 1.77 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days after service of the order to show cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the order. In the event that it would be impossible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for a written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause. When a hearing is waived, the Chief Hearing Examiner will issue an order certifying the case to the Commission. The Commission will then determine on the basis of all of the information available to it from any source, which may include statements filed by the respondent, recommendations from the Commission's staff, respondent's past violation record, etc., or such further proceedings as may be warranted, whether a revocation order and/or a cease and desist order should be issued or whether the matter should be dismissed.

The Hearing Examiner having under consideration "Motion for Continuance of Hearing", filed January 12, 1961, on behalf of the applicant requesting a continuance of the hearing now scheduled for February 3, 1961, to March 17, 1961, and rescheduling the dates for the exchange of affirmative engineering and rebuttal engineering exhibits respectively;

It appearing that the instant proposal of Station WHOP if granted will cause substantial interference to Station WTCJ, Tell City, Indiana;

It further appearing that it is desirable to take further measurements respecting the possibilities of the interference problems involved herein;

It further appearing that good cause exists, there is no opposition thereto, and all parties have consented to a waiver of § 1.43 of the Commission's rules permitting immediate consideration of the instant pleading;

*Accordingly, it is ordered*, This 17th day of January 1961, that the motion is granted and the hearing herein is rescheduled from February 3, 1961, to March 17, 1961, 10:00 a.m., in the Commission Offices, Washington 6, D.C.

*It is further ordered*, That the exchange of affirmative engineering and rebuttal engineering exhibits shall be on or before February 27, 1961, and March 6, 1961, respectively.

Released: January 17, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
*Acting Secretary.*

[F.R. Doc. 61-597; Filed, Jan. 23, 1961;  
8:51 a.m.]

## FEDERAL POWER COMMISSION

[Docket No. CP61-129]

**NATURAL GAS PIPELINE CO. OF  
AMERICA**

### Notice of Application and Date of Hearing

JANUARY 13, 1961.

Take notice that on October 28, 1960, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago 3, Illinois, filed in Docket No. CP61-129 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of meter stations, lateral pipelines and taps on Applicant's existing transmission system to enable it to take into its certificated main pipeline system natural gas which will be purchased from producers thereof from time to time during the calendar year 1961, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The total cost of all projects for which authorization is sought in this "budget type" application is not to exceed \$3,500,000, with the total cost of any single project limited to \$500,000.



The purpose of this proposal is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various areas generally coextensive with its system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on February 20, 1961 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1), or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 3, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 61-550; Filed, Jan. 23, 1961;  
8:46 a.m.]

[Docket No. CP61-168]

### TRANSWESTERN PIPELINE CO.

#### Notice of Application and Date of Hearing

JANUARY 16, 1961.

Take notice that on December 21, 1960, Transwestern Pipeline Company (Applicant), First City National Bank Building, Houston, Texas, filed in Docket No. CP61-168 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of field facilities to enable Applicant to take into its certificated main transmission pipeline system natural gas which will be purchased from producers thereof from time to time during the calendar year 1961 in the area of its existing transmission system at a total cost of not to exceed \$3,000,000, with no single project to exceed a cost of \$500,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type proposal is to augment Applicant's ability to act with reasonable dispatch in securing by contract and connecting to its pipeline system new supplies of natural gas in various areas generally coextensive with said system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on February 16, 1961, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 8, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 61-551; Filed, Jan. 23, 1961;  
8:46 a.m.]

[Docket No. E-6975]

### SOUTHWESTERN POWER ADMINISTRATION

#### Notice of Request for Approval of Rates and Charges

JANUARY 16, 1961.

Notice is hereby given that the Secretary of the United States Department of the Interior, on behalf of the Southwestern Power Administration (SWPA), has filed with the Federal Power Commission, for confirmation and approval, pursuant to section 5 of the Flood Control Act of 1944 (58 Stat. 887), the rates and charges and the appropriate terms and conditions contained in an agreement between SWPA and the Associated Electric Cooperative, Inc.<sup>1</sup> (Cooperative) for the sale by SWPA of the entire electric output of the Bull Shoals and Table

<sup>1</sup> The Cooperative was created for the purpose of acting as operating agent for Central Electric Power Cooperative; Kamo Electric Cooperative, Inc.; M & A Electric Power Cooperative; Northeast Missouri Electric Power Cooperative; N.W. Electric Power Cooperative, Inc.; and Sho-Me Power Corporation.

Rock projects and for the exchange emergency service. Approval is requested for the period from the date of the Commission's order until June 1, 1970.

The pertinent sections in the agreement pertaining to rates and charges are sections of Articles V and IX, which, briefly, are as follows:

SWPA shall sell and deliver to the Cooperative, and the Cooperative shall purchase and receive, all of the electric power and energy generated at the Bull Shoals and Table Rock projects, exclusive of such amounts of secondary energy from the Bull Shoals project for which SWPA is committed to meet its obligation to the Arkansas Power & Light Company. The Cooperative shall compensate SWPA each month for the Bull Shoals-Table Rock power and energy in accordance with the schedule of compensation as set forth below:

| During the period when name plate capacity of generators installed and in commercial operation of Bull Shoals is— | And name plate capacity of generators installed and in commercial operation at Table Rock is— | Payment by the Cooperative per Contract year <sup>1</sup> shall be— | Payable each month at the rate of— |
|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------|------------------------------------|
| Kilowatts                                                                                                         | Kilowatts                                                                                     |                                                                     |                                    |
| 160,000                                                                                                           | 100,000                                                                                       | \$3,120,000                                                         | \$260,000                          |
| 160,000                                                                                                           | 150,000                                                                                       | 3,720,000                                                           | 310,000                            |
| 160,000                                                                                                           | 200,000                                                                                       | 4,320,000                                                           | 360,000                            |
| 205,000                                                                                                           | 200,000                                                                                       | 4,860,000                                                           | 405,000                            |
| 250,000                                                                                                           | 200,000                                                                                       | 5,400,000                                                           | 450,000                            |
| 295,000                                                                                                           | 200,000                                                                                       | 5,940,000                                                           | 495,000                            |
| 340,000                                                                                                           | 200,000                                                                                       | 6,480,000                                                           | 540,000                            |

<sup>1</sup> Contract year shall mean the 12-month period beginning June 1 of each calendar year.

Under the agreement dated January 9, 1952 between the United States of America, Arkansas Power & Light Company and Reynolds Metal Company, SWPA is committed to deliver to Arkansas Power & Light Company a certain amount of secondary energy available to SWPA from those projects which are integrated through SWPA's Denison-Norfolk transmission line. For energy received from the Bull Shoals project to assist in carrying out this obligation, the Cooperative shall be compensated at the following rates:

Until January 1, 1969, 1.5 mills per kwh.  
January 1, 1969 to January 1, 1974, 1.75 mills per kwh.  
January 1, 1974 and thereafter, 2.00 mills per kwh.

In the event that the output of the projects is reduced for more than 24 hours due to an uncontrollable force, provision is made for SWPA to compensate the Cooperative, during the months of June through September for its purchases from an outside source, of the difference between such reduced output and the amount scheduled by the Cooperative. Provision is also made for a reduction in the payments in the above schedule of compensation if the output of the projects is reduced by reason of an uncontrollable force for a period of 15 consecutive days during the months of October through May.

The Cooperative and SWPA will furthermore provide emergency service to each other at the rate of 1.25 cents per kwh.



Other services to be rendered under the agreement between SWPA and the Cooperative are for the sale by the Cooperative to SWPA of up to 60,000 kw of capacity and such associated energy as may be required to provide service to certain specified customers of SWPA. In addition, the Cooperative agrees to provide for the period beginning with the commencement of operations and ending June 1, 1965, varying amounts of capacity and such accompanying energy as may be required by SWPA to fulfill its obligations to its customers under existing contracts. In addition to the payments to the Cooperative for the above electric service, SWPA will compensate the Cooperative for the use of its transmission facilities required for the delivery of such electric service and the Cooperative will undertake to operate and maintain, at no expense to SWPA, certain isolated portions of SWPA's transmission facilities located in the Cooperative's service area.

Any person desiring to make comments or suggestions for Commission consideration with respect to the foregoing rates and charges should submit the same in writing on or before January 27, 1961, to the Federal Power Commission, Washington 25, D.C.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 61-552; Filed, Jan. 23, 1961;  
8:46 a.m.]

## DEPARTMENT OF COMMERCE

### Bureau of Foreign Commerce

[Case No. 285]

#### MAX ROSÉ AND M. ROSÉ HANDELS- GESELLSCHAFT M.B.H.

#### Order Denying Export Privileges

In the matter of MAX ROSÉ and M. ROSÉ HANDELSGESELLSCHAFT M.B.H., Biberstrasse 22, Vienna, Austria, Respondents, Case No. 285.

Max Rosé and M. Rosé Handelsgesellschaft m.b.H., the respondents herein, were charged by the Director, Investigation Staff, Bureau of Foreign Commerce of the United States Department of Commerce, with having violated the Export Control Act of 1949, as amended, and regulations promulgated thereunder. They appeared and answered in person but did not attend the oral hearing.

In accordance with the practice, the case was referred to the Compliance Commissioner, who has reported that the evidence supports findings of violation and has recommended that the respondents be denied export privileges so long as export controls remain in effect, subject to a right to apply for curtailment as hereinafter provided.

Now, after considering the entire record consisting, among other things, of the charging letter, the evidence submitted in support thereof, the answer submitted by the respondents, and the Report and Recommendation of the Compliance Commissioner, I hereby make the following findings of fact:

1. At all times hereinafter mentioned, the respondents, Max Rosé and M. Rosé Handelsgesellschaft m.b.H., were and now are engaged in the export, import, and transit business in Vienna, Austria.

2. Heretofore and on or about the 19th day of August 1958, they ordered seventeen electronic tubes valued in the aggregate at about \$420 from a supplier in the United States and, in the letter whereby they ordered said tubes, they represented that the tubes had been ordered by a factory in Vienna for use in its operations. This representation was made by them although it was at that time their intention to re-export the tubes from Austria.

3. In reliance on said representation, the American supplier applied to the Bureau of Foreign Commerce for a validated export license authorizing the said exportation to the respondents for the account of the factory in Vienna named by them as the end-user.

4. Such validated export license was duly issued by the Bureau of Foreign Commerce and, after the issuance thereof, the American supplier exported the said seventeen tubes to the respondents pursuant thereto. It represented on the export declaration and on the air waybill that the commodities had been licensed by the United States for Austria as the ultimate destination. The waybill contained a notice that diversion from Austria was contrary to United States law. At about the same time, the American supplier sent to the respondents the invoice for said tubes, and on the said invoice there was endorsed a destination control clause limiting the destination of the goods to Austria and warning against any diversion contrary to United States law.

5. After receiving the said tubes in Vienna, the respondents caused them to be diverted to Hungary without prior authorization from the Bureau of Foreign Commerce.

And, from the foregoing, I have concluded that the respondents knowingly caused to be concealed from the Bureau of Foreign Commerce at the time that they ordered the said tubes the fact that they intended to transship the same to Hungary and, after receiving the said tubes in Austria, they caused them to be diverted, transshipped, and re-exported from Austria to Hungary, all in violation of §§ 381.2, 381.4, 381.5, and 381.6 of the Export Regulations.

Having concluded that the recommended action is fair, just, and necessary to achieve effective enforcement of the law, it is hereby ordered:

I. So long as export controls shall be in effect, the said respondents, their agents, servants, and employees, be, and they hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada, whether such exportation has heretofore or hereinafter been completed. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to

include and prohibit participation, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to any validated export license application, (b) in the obtaining or using of any validated license, or resorting to a procedure permitted by any General License, or the utilization of any export control document, (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (d) in storing, financing, forwarding, transporting, or other servicing of such exports from the United States.

II. Such denial of export privileges shall extend not only to the respondents, but also to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade in which may be involved exports from the United States or services connected therewith.

III. At the expiration of one year from the date hereof, the respondents may apply to have the effective denial of export privileges held in abeyance while they remain on probation by submitting evidence showing their compliance with all the terms of this order and the details of all their import and export transactions during said year, such application to be considered on its merits and the policies and conditions in effect at that time.

IV. Without prior disclosure to, and specific authorization from the Bureau of Foreign Commerce, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, shall, on behalf of or in any association with the respondents, directly or indirectly, in any manner or capacity (a) apply for, obtain, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity or (b) order, receive, buy, use, sell, dispose of, finance, transport, or forward any commodity heretofore or hereafter exported from the United States. Nor shall any person do any of the foregoing acts with respect to any such commodity or exportation in which the respondents may have any interest of any kind or nature.

Dated: January 18, 1961.

FRANK W. SHEAFFER,  
Director,  
Office of Export Supply.

[F.R. Doc. 61-577; Filed, Jan. 23, 1961;  
8:49 a.m.]

#### Office of the Secretary MAX LARRY BLUESTONE

#### 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 during the past six months.

A. Deletions: Kennecott Copper, Upjohn Company.

B. Additions: International Telephone & Telegraph.

Dated: January 10, 1961.

This statement is made as of January 8, 1961.

MAX LARRY BLUESTONE.

[F.R. Doc. 61-558; Filed, Jan. 23, 1961; 8:48 a.m.]

## CUMULATIVE CODIFICATION GUIDE—JANUARY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during January.

| 3 CFR                    | Page     | 3 CFR—Continued                      | Page                       | 7 CFR—Continued                 | Page                                |
|--------------------------|----------|--------------------------------------|----------------------------|---------------------------------|-------------------------------------|
| <b>PROCLAMATIONS:</b>    |          | <b>EXECUTIVE ORDERS—Continued</b>    |                            | <b>PROPOSED RULES—Continued</b> |                                     |
| June 29, 1911.....       | 323      | 10912.....                           | 509                        | 996.....                        | 29                                  |
| 1322.....                | 247      | 10913.....                           | 510                        | 998.....                        | 225                                 |
| 1991.....                | 247      | 10914.....                           | 639                        | 999.....                        | 29, 677                             |
| 2416.....                | 165      | <b>PRESIDENTIAL DOCUMENTS OTHER</b>  |                            | 1004.....                       | 30                                  |
| 3279.....                | 507      | <b>THAN PROCLAMATIONS AND EXECU-</b> |                            | 1016.....                       | 251, 679                            |
| 3290.....                | 507      | <b>TIVE ORDERS:</b>                  |                            | 1019.....                       | 620                                 |
| 3328.....                | 507      | Memorandum, Nov. 5, 1953.....        | 217                        | 1025.....                       | 67                                  |
| 3386.....                | 507      | Memorandum, May 7, 1959.....         | 217                        | 1033.....                       | 35                                  |
| 3388.....                | 247      | Memorandum, Mar. 9, 1960.....        | 217                        |                                 |                                     |
| 3389.....                | 507      | Reorganization Plan 8.....           | 143                        |                                 |                                     |
| 3390.....                | 507      |                                      |                            |                                 |                                     |
| 3391.....                | 639      |                                      |                            |                                 |                                     |
| <b>EXECUTIVE ORDERS:</b> |          | <b>5 CFR</b>                         |                            | <b>8 CFR</b>                    |                                     |
| July 9, 1875.....        | 165      | 2.....                               | 181                        | 211.....                        | 482                                 |
| July 15, 1875.....       | 165      | 6.....                               | 3, 640                     | 214.....                        | 641                                 |
| July 2, 1910.....        | 111      | 9.....                               | 181                        |                                 |                                     |
| Nov. 13, 1915.....       | 111      | 25.....                              | 335                        | <b>10 CFR</b>                   |                                     |
| 5251.....                | 324      | 27.....                              | 640                        | 20.....                         | 352                                 |
| 6260.....                | 321      | 30.....                              | 640                        | 40.....                         | 284                                 |
| 7594.....                | 165      | 201.....                             | 474                        |                                 |                                     |
| 10000.....               | 217      | 204.....                             | 474                        | <b>12 CFR</b>                   |                                     |
| 10011.....               | 217      | 301.....                             | 280                        | 301.....                        | 287                                 |
| 10085.....               | 217      | 325.....                             | 351                        | 303.....                        | 287                                 |
| 10100.....               | 217      |                                      |                            | 304.....                        | 287                                 |
| 10187.....               | 217      | <b>6 CFR</b>                         |                            | 326.....                        | 287                                 |
| 10261.....               | 217      | 10.....                              | 3                          | 327.....                        | 287                                 |
| 10313.....               | 217      | 331.....                             | 641                        |                                 |                                     |
| 10391.....               | 217      | 421.....                             | 576, 577                   | <b>13 CFR</b>                   |                                     |
| 10477.....               | 143      | 446.....                             | 577                        | 107.....                        | 183                                 |
| 10501.....               | 217      | 464.....                             | 126                        | <b>PROPOSED RULES:</b>          |                                     |
| 10503.....               | 217      | 484.....                             | 183                        | 107.....                        | 13, 226, 305                        |
| 10530.....               | 217      |                                      |                            | 121.....                        | 487-489                             |
| 10560.....               | 143      | <b>7 CFR</b>                         |                            |                                 |                                     |
| 10575.....               | 509      | 6.....                               | 577                        | <b>14 CFR</b>                   |                                     |
| 10584.....               | 510      | 26.....                              | 121                        | 1.....                          | 92                                  |
| 10623.....               | 217      | 51.....                              | 163                        | 42.....                         | 93                                  |
| 10624.....               | 217      | 52.....                              | 578                        | 60.....                         | 292, 570                            |
| 10636.....               | 217      | 401.....                             | 280                        | 507.....                        | 3, 21, 161, 324                     |
| 10685.....               | 143      | 722.....                             | 219                        | 514.....                        | 4, 219                              |
| 10708.....               | 143      | 728.....                             | 121                        | 600.....                        | 5, 21, 23, 572, 573, 642, 643       |
| 10716.....               | 509      | 815.....                             | 475                        | 601.....                        | 5, 23, 125, 572-575, 642-644        |
| 10738.....               | 508      | 846.....                             | 91                         | 602.....                        | 6, 576                              |
| 10746.....               | 143      | 849.....                             | 248, 642                   | 608.....                        | 23, 572, 573, 576                   |
| 10773.....               | 217      | 914.....                             | 21, 121, 280, 351, 581     | 609.....                        | 94, 99, 105, 324, 329               |
| 10782.....               | 217      | 927.....                             | 92                         | <b>PROPOSED RULES:</b>          |                                     |
| 10799.....               | 143      | 933.....                             | 281, 282                   | 507.....                        | 169, 624                            |
| 10827.....               | 143      | 938.....                             | 475                        | 600.....                        | 52, 484, 485                        |
| 10853.....               | 217      | 953.....                             | 3, 121, 183, 249, 283, 581 | 601.....                        | 52                                  |
| 10865.....               | 508      | 955.....                             | 283                        |                                 | 260, 303, 304, 342, 485-487, 625    |
| 10884.....               | 143      | 993.....                             | 475                        | <b>15 CFR</b>                   |                                     |
| 10893.....               | 143, 509 | 1031.....                            | 122, 123, 581, 582         | 371.....                        | 583                                 |
| 10900.....               | 143      | 1032.....                            | 220                        |                                 |                                     |
| 10901.....               | 217      | 1034.....                            | 123, 351                   | <b>16 CFR</b>                   |                                     |
| 10902.....               | 217      | <b>PROPOSED RULES:</b>               |                            | 13.....                         | 6, 24, 125, 250, 293, 294, 322, 584 |
| 10903.....               | 217      | 51.....                              | 27                         | 51.....                         | 184                                 |
| 10904.....               | 279      | 52.....                              | 336, 340                   |                                 |                                     |
| 10905.....               | 321      | 903.....                             | 663                        | <b>17 CFR</b>                   |                                     |
| 10906.....               | 508      | 904.....                             | 29                         | 50.....                         | 126                                 |
| 10907.....               | 508      | 914.....                             | 132                        | <b>PROPOSED RULES:</b>          |                                     |
| 10908.....               | 508      | 943.....                             | 225                        | 1.....                          | 132                                 |
| 10909.....               | 508      | 949.....                             | 225                        | 5.....                          | 132                                 |
| 10910.....               | 509      | 952.....                             | 225                        |                                 |                                     |
| 10911.....               | 509      | 963.....                             | 197, 251                   | <b>19 CFR</b>                   |                                     |
|                          |          | 966.....                             | 225                        | 1.....                          | 294                                 |
|                          |          | 990.....                             | 29                         | 8.....                          | 187                                 |
|                          |          |                                      |                            | 10.....                         | 188, 294                            |
|                          |          |                                      |                            | 11.....                         | 187                                 |
|                          |          |                                      |                            | 14.....                         | 188                                 |



| 21 CFR                             | Page                         | 30 CFR          | Page | 47 CFR—Continued | Page     |
|------------------------------------|------------------------------|-----------------|------|------------------|----------|
| 1.....                             | 294                          | 36.....         | 645  | PROPOSED RULES:  |          |
| 8.....                             | 162                          | PROPOSED RULES: |      | 1.....           | 310, 372 |
| 9.....                             | 162                          | 10—14a.....     | 128  | 2.....           | 373      |
| 120.....                           | 24, 109                      | 16—26.....      | 128  | 3.....           | 688      |
| 121.....                           | 25,                          | 31—32.....      | 128  |                  |          |
| 109, 110, 162, 188, 189, 220, 352, | 644                          | 33.....         | 168  |                  |          |
| 130.....                           | 294                          | 34.....         | 128  |                  |          |
| 146.....                           | 127                          |                 |      |                  |          |
| 147.....                           | 127                          |                 |      |                  |          |
| PROPOSED RULES:                    |                              |                 |      |                  |          |
| 8.....                             | 679                          |                 |      |                  |          |
| 27.....                            | 226                          |                 |      |                  |          |
| 120.....                           | 260, 342                     |                 |      |                  |          |
| 121.....                           | 52,                          |                 |      |                  |          |
| 168, 169, 197, 226, 260, 484,      | 621                          |                 |      |                  |          |
| 146c.....                          | 112                          |                 |      |                  |          |
|                                    |                              |                 |      |                  |          |
| 22 CFR                             |                              |                 |      |                  |          |
| 41.....                            | 645                          |                 |      |                  |          |
| 46.....                            | 482                          |                 |      |                  |          |
| 53.....                            | 482                          |                 |      |                  |          |
|                                    |                              |                 |      |                  |          |
| 24 CFR                             |                              |                 |      |                  |          |
| 221.....                           | 334                          |                 |      |                  |          |
| 222.....                           | 334                          |                 |      |                  |          |
| 225.....                           | 334                          |                 |      |                  |          |
| 233.....                           | 334                          |                 |      |                  |          |
| 235.....                           | 335                          |                 |      |                  |          |
| 237.....                           | 335                          |                 |      |                  |          |
| 263.....                           | 335                          |                 |      |                  |          |
| 266.....                           | 335                          |                 |      |                  |          |
|                                    |                              |                 |      |                  |          |
| 25 CFR                             |                              |                 |      |                  |          |
| 171.....                           | 163                          |                 |      |                  |          |
| 174.....                           | 163                          |                 |      |                  |          |
| 175.....                           | 163                          |                 |      |                  |          |
| 176.....                           | 163                          |                 |      |                  |          |
| PROPOSED RULES:                    |                              |                 |      |                  |          |
| 221.....                           | 13                           |                 |      |                  |          |
|                                    |                              |                 |      |                  |          |
| 26 CFR                             |                              |                 |      |                  |          |
| 1.....                             | 145, 189, 399, 401,          |                 |      |                  |          |
| 405, 409, 413, 512, 514, 518, 524, | 546                          |                 |      |                  |          |
| 19.....                            | 524                          |                 |      |                  |          |
| 20.....                            | 414                          |                 |      |                  |          |
| 25.....                            | 548                          |                 |      |                  |          |
| 31.....                            | 552                          |                 |      |                  |          |
| 45.....                            | 419                          |                 |      |                  |          |
| 48.....                            | 556                          |                 |      |                  |          |
| 49.....                            | 557                          |                 |      |                  |          |
| 81.....                            | 462                          |                 |      |                  |          |
| 148.....                           | 557                          |                 |      |                  |          |
| 301.....                           | 562, 566, 567, 570           |                 |      |                  |          |
| PROPOSED RULES:                    |                              |                 |      |                  |          |
| 1.....                             | 372, 484, 586, 589, 603, 615 |                 |      |                  |          |
| 48.....                            | 620                          |                 |      |                  |          |
|                                    |                              |                 |      |                  |          |
| 29 CFR                             |                              |                 |      |                  |          |
| 785.....                           | 190                          |                 |      |                  |          |
| PROPOSED RULES:                    |                              |                 |      |                  |          |
| 604.....                           | 51, 484                      |                 |      |                  |          |
| 606.....                           | 51, 484                      |                 |      |                  |          |
| 713.....                           | 51, 484                      |                 |      |                  |          |

## Now Available

Public Papers of the  
Presidents

+

Containing Public Messages,  
Speeches and Statements,  
Verbatim News Conferences

+

Volumes for the following  
years are now available:

|           |        |
|-----------|--------|
| 1953..... | \$6.75 |
| 1954..... | 7.25   |
| 1955..... | 6.75   |
| 1956..... | 7.25   |
| 1957..... | 6.75   |
| 1958..... | 8.25   |
| 1959..... | 7.00   |

Published by the Office of the Federal  
Register, National Archives and Records  
Service, General Services Administration

Order from Superintendent of Documents,  
United States Government Printing Office,  
Washington 25, D.C.



