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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter II—Employment and Compensation in the Canal Zone

PART 201—GENERAL

PART 203—CONVERSION TO CANAL ZONE CAREER OR CAREER-CONDITIONAL APPOINTMENTS

PART 204—COMPENSATION AND ALLOWANCES

Miscellaneous Amendments

1. Effective upon publication in the FEDERAL REGISTER § 201.100(b)(6) is amended to read as follows:

§ 201.100 Exclusions.

(6) Visiting physicians and nurses of the Panama Canal Company assigned to the home-visit program for beneficiaries of the Cash Relief Act of July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17) who reside in the Republic of Panama.

§ 203.2 [Amendment]

2. Effective upon publication in the FEDERAL REGISTER § 203.2(d) is amended by changing the period to a comma and adding additional text so that as amended paragraph (d) reads as follows:

(d) All recommendations for conversion must be submitted within one year of the effective date of the regulations in this part, except that when positions are affected by a deletion of an exception previously authorized under § 201.100 of this chapter, recommendations for conversion of incumbents must be submitted within one year from the date of publication of the deletion in the FEDERAL REGISTER.

3. Effective upon publication in the FEDERAL REGISTER Part 204 is amended by adding the following language to § 204.11; by designating the existing text of § 204.18 as § 204.18(a); and adding the following paragraph (b):

§ 204.11 Tax factor.

A tax factor is authorized in an amount equivalent to the excess of the income tax which the typical U.S. citizen employee normally would expect to pay to the U.S. Government on his salary including the tropical differential over the amount of income tax the typical Panamanian citizen employee would normally pay to the Panamanian Government on the same salary without the tropical differential. The tax for U.S. citizens shall be computed on the basis of a family of four, using the standard ten percent (10%) deduction and joint return computation. The Panamanian tax shall be computed on the basis of the "family" tax, disregarding the "bachelor" tax and by applying the deduction authorized for two minors. The amount of the tax factor will be recomputed as necessary to conform with any changes in the tax laws of either the Republic of Panama or the United States. In such event, the payment of the revised tax factor or of the revised base or wage rates directly attributable to the revised tax factor will be effective as of the effective date of the tax change.

§ 204.18 Pay saving.

* * * * *

(b) Whenever under § 204.11 a recomputation of the tax factor necessitated by a change in tax laws would result in decreases in rates of pay, the employees so affected shall, pending individual raises or general increases in base salary or wage rates which will fully offset the pay decreases attributable to the tax factor recomputation, continue to receive the rates of pay to which they were entitled immediately prior to the effective date of such computation.

ELVIS J. STAHR, Jr.,
Secretary of the Army.

[F.R. Doc. 62-2550; Filed, Mar. 15, 1962; 8:45 a.m.]

Title 7—AGRICULTURE

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

[Orange Reg. 6]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 905.317 Orange Regulation 6.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C., 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, including Temple oranges, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on March 13, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges, including Temple oranges, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title; 25 F.R. 8211).

(2) Orange Regulation 5 (§ 905.315; 27 F.R. 2071) is hereby terminated effective at 12:01 a.m., e.s.t., March 16, 1962.

(3) During the period beginning at 12:01 a.m., e.s.t., March 16, 1962, and ending at 12:01 a.m., e.s.t., April 2, 1962, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, except Temple oranges, grown in the production area, which do not grade at least U.S. No. 1 Russet;

(ii) Any oranges, except Temple oranges, grown in the production area, which are of a size smaller than 2$\frac{8}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter

shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said United States Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than 2 $^{9}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2 $^{11}/_{16}$ inches in diameter or smaller; or

(iii) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 14, 1962.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62–2632; Filed, Mar. 15, 1962; 9:12 a.m.]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

EDITORIAL NOTE: In the republication of 7 CFR Part 989 (FEDERAL REGISTER of December 14, 1960, 25 F.R. 12813), notes following § 989.59 and § 989.97, respectively, were inadvertently omitted. These notes read as follows:

§ 989.59 Regulation of the handling of raisins subsequent to their acquisition by handlers.

* * * * *

NOTE: Order, 23 F.R. 6374, Aug. 20, 1958, provides in part as follows:

Effective September 1, 1958, the requirement set forth in § 989.59(a)(2)(iii) that Layer Muscat raisins in packed form at least meet the minimum grade standards prescribed in "U.S. Grade B" as contained in effective United States Standards for Grades of Processed Raisins (§§ 52.1841 to 52.1852 of this title) is, pursuant to the authority contained in § 989.59(b), modified insofar as operation under the order is concerned, to eliminate therefrom the moisture content restriction set forth in § 52.1847a(b) of this title.

§ 989.97 Exhibit B; minimum grade and condition standards for natural condition raisins.

* * * * *

NOTE: Order, 23 F.R. 6374, Aug. 20, 1958, provides in part as follows:

Effective September 1, 1958, § 989.97 B3 is, pursuant to the authority contained in § 989.58(b), modified so as to change the parenthetical phrase therein reading "(except Layer Muscats shall not exceed 18 percent)" to read "(except that there shall be no maximum permissible percentage for moisture content of Layer Muscats)" and by changing paragraph d of said section to read as follows:

d. Of such quality and condition that, when processed in accordance with good commercial practice, will, except with respect to moisture content, meet "U.S. Grade B" or better grade as defined in the effective United States Standards for Grades of Processed Raisins.

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Rulings

1. Part 1, Chapter I, Title 12, of the Code of Federal Regulations of the United States of America is hereby amended by adding a new section headnote and § 1.5 as follows:

§ 1.5 Rulings.

The Comptroller has ruled as follows on specific security issues:

(a) The Texas Turnpike Authority, Dallas-Fort Worth Turnpike Revenue Bonds, are ineligible for purchase by national banks.

(b) The $28,000,000 State Highway Department of the State of Delaware, 4 $^{1}/_{8}$% Delaware Turnpike Revenue Bonds, dated January 1, 1962, are ineligible for purchase by national banks.

(c) The $74,000,000 State Roads Commission of the State of Maryland 4 $^{1}/_{8}$% Northeastern Expressway Revenue Bonds, dated January 1, 1962, are ineligible for purchase by national banks.

(d) The $25,000,000 Town of Cherokee, Alabama, 4 $^{3}/_{4}$% Industrial Development Revenue Bonds, dated March 1, 1961, are eligible for purchase by national banks, within the limitations of Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24).

Dated: March 12, 1962.

[SEAL] JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 62–2575; Filed, Mar. 15, 1962; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1108; Amdt. 410]

PART 507—AIRWORTHINESS DIRECTIVES

Brantly B–2 Helicopters

As a result of serveral reported incidents and a recent accident it has been found that the seat back on Brantly B–2 helicopters does not lock positively when the seat is in the forward position. The sliding upwards of the seat back adjustment wire causes the bottom of the seat to suddenly slide rearward. This can lead to excessive control motions which in one case allowed the helicopter to inadvertently contact the ground. Accordingly, an airworthiness directive is necessary to require removal of the seat back adjustment wire to prevent unintentional movement of the seat.

As a situation exists which demands immediate action in the interest of safety, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after date of publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

BRANTLY. Applies to all Model B–2 helicopters equipped with seat back adjustment wire P/N B2–334–32.

Compliance required within the next 10 hours' time in service after the effective date of this AD.

To prevent the sudden movement of the seat backs to the full aft adjustment position, the following must be accomplished:

Remove the seat back adjustment wire P/N B2–334–32 from the left and right seat backs.

This amendment shall become effective March 23, 1962.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on March 9, 1962.

G. S. MOORE,
Acting Director, Flight Standards Service.

[F.R. Doc. 62–2559; Filed, Mar. 15, 1962; 8:46 a.m.]

[Reg. Docket No. 1105; Amdt. 408]

PART 507—AIRWORTHINESS DIRECTIVES

Fairchild F–27 Series Aircraft

Amendment 399, 27 F.R. 1480, requires inspection of the main landing gear drag strut attaching bolts and bushings on Fairchild F–27 Series aircraft. While it is necessary to remove the bolts to accomplish the required inspection, it is not necessary to remove the bushings as presently required in paragraphs (f) and (g). Accordingly, the directive is being revised to delete this requirement. In addition, Amendment 399 is being amended to correct an error in a bushing part number.

Since this amendment relaxes a requirement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended as follows:

Amendment 399, 27 F.R. 1480, Fairchild F–27 Series aircraft is amended by:

1. Deleting from the first sentence of paragraphs (f) and (g) the words "remove and."

2. Correcting the bushing part number in the first sentence of paragraph (g) to read "D9027Y8" instead of "D9207Y8."

This amendment shall become effective March 16, 1962.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on March 9, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-2557; Filed, Mar. 15, 1962; 8:46 a.m.]

[Reg. Docket No. 1106; Amdt. 409]

PART 507—AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT3D Series Turbofan Engines

Amendment 380, 26 F.R. 12214, requires rework of Pratt and Whitney Aircraft JT3D-1, JT3D-1-MC6, JT3D-1-MC7, and JT3D-3 turbofan engines installed in Boeing and Douglas aircraft to incorporate metal chevron type seals not later than the first engine overhaul after March 1, 1962. Pending incorporation of the metal chevron type seals, the original seals must be replaced with new seals of the same part number every 300 hours' time in service. It has been determined that all operators will not be able to comply with Amendment 380 by the specified time due to the lack of satisfactory metal chevron type seals resulting from fabrication problems. Since the replacement with new seals of the original type is required until the metal chevron type seals are installed, extension of the compliance time specified in paragraph (b) can be granted without adversely affecting safety of the aircraft. Accordingly, this amendment is being published to extend the time for the required incorporation of metal chevron type seals to the first engine overhaul after June 1, 1962.

Since this amendment relaxes a requirement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended as follows:

Amendment 380, 26 F.R. 12214, Pratt & Whitney JT3D Series turbofan engines, is amended by changing the compliance statement under (b) to read as follows: "Compliance required not later than the first engine overhaul after June 1, 1962."

This amendment shall become effective March 16, 1962.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on March 9, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-2558; Filed, Mar. 15, 1962; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-13]

PART 13—PROHIBITED TRADE PRACTICES

Jacob Klaff et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* § 13.15-195 *Nature;* § 13.90 *History of product or offering;* § 13.235 *Source or origin:* § 13.235-50 *Maker or seller, etc.:* §13.235-50(a) *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Products Labeling Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Jacob Klaff trading as Francine's et al., Boston, Mass., Docket C-13, Oct. 31, 1961]

In the Matter of Jacob Klaff, an Individual Trading as Francine's, and Howard Klaff, an Individual and Manager of Francine's

Consent order requiring Boston furriers to cease violating the Fur Products Labeling Act by representing falsely in advertisements in newspapers that they operated a "millionaire thrift salon", and that fur products offered for sale were "new arrivals, flown in from Hollywood," from "stage, screen and TV stars" and "social register society," etc.; and by failing to keep adequate records as a basis for pricing claims.

The order to cease and desist, together with further order requiring report of compliance therewith is as follows:

It is ordered, That Jacob Klaff, an individual trading as Francine's or under any other name, and Howard Klaff, an individual and manager of Francine's and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products and which:

A. Represents directly or by implication that respondents own and operate a millionaire thrift salon or words of similar import when such is not the fact.

B. Represents directly or by implication that fur products offered for sale were just unpacked, new arrivals flown in from Hollywood or words of similar import when such is not the fact.

C. Represents directly or by implication that fur products offered for sale were formerly proudly owned and worn by some of America's best dressed women or words of similar import when such is not the fact.

D. Represents directly or by implication that fur products offered for sale are from stage, screen and TV stars or words of similar import when such is not the fact.

E. Represents directly or by implication that fur products offered for sale were formerly owned by envied society women or words of similar import when such is not the fact.

F. Represents directly or by implication that fur products offered for sale are from social register sources or words of similar import when such is not the fact.

2. Making pricing claims and representations of the types covered by subsections (a), (b), (c), and (d) under Rule 44 of the Regulations under the Fur Products Labeling Act unless there are maintained full and adequate records disclosing the facts upon which such claims and representations are based.

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

Issued: October 31, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-2549; Filed, Mar. 15, 1962; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 719—NONJUDICIAL PUNISHMENT, NAVAL COURTS AND CERTAIN FACT-FINDING BODIES

Fees of Civilian Witnesses

Scope and purpose. Section 719.131(i)(1) deals with fees (per diem, mileage and subsistence allowance) of civilians not in Government employ who are duly summoned as witnesses before a naval tribunal or for the taking of a deposition; the section is revised for the purpose of clarification without change in substance. The corresponding section 0131 of the Manual of the Judge Advocate General will be amended likewise through a change which will be distributed to holders of the Manual in due course.

1. Section 719.131(i)(1) is revised to read as follows:

§ 719.131 Fees of civilian witnesses.

* * * * *

(i) *Rates for civilian witnesses prescribed by law—(1) Civilian witnesses not in Government employ.* A civilian not in Government employ, duly summoned as a witness before a naval tribunal, or at a place where his deposition is to be taken for use before such court or fact-finding body, will receive four dollars ($4.00) for each day's actual attendance and for the time necessarily occupied in going to and returning from the same pursuant to such summons, and 8 cents per mile for going from and returning to his place of residence provided such travel is performed as the direct result of being duly summoned to appear as a witness. Regardless of the mode of travel employed by the witness, computation of mileage in this respect shall be made on the basis of a uniform table of distances adopted by the Attorney General (Rand McNally Standard Highway Mileage Guide). Civilian witnesses who are not salaried employees of the Government and who are not in custody and who attend pursuant to being duly summoned at points so far removed from their respective residences as to prohibit return thereto from day to day, shall be entitled to an additional allowance of eight dollars ($8.00) per day for expenses of subsistence including the time necessarily occupied in going to and returning from the place of attendance: *Provided,* That in lieu of the mileage allowance provided for herein, witnesses who are required to travel between Hawaii, Puerto Rico, the Territories and possessions, or to and from the continental United States, shall be entitled to the actual expenses of travel at the lowest first class rate available at the time of reservation for passage, by means of transportation employed: *And provided further,* That this subparagraph (1) shall not apply to Alaska. In each instance involving Alaska, the Judge Advocate General will, upon request, furnish the current applicable rates. (See 28 CFR 21.3 for fees and allowances of witnesses in Alaska.) Nothing in this section shall be construed as authorizing the payment of fees, mileage allowance or subsistence to witnesses for attendance or travel which is not performed as a direct result of being duly summoned, or for travel which is performed prior to being duly summoned as a witness, or for travel returning to their places of residence if the travel from their places of residence does not qualify for payment under this subparagraph.

(R.S. 161, 183, secs. 801–940, 5031, 70A Stat. 36–278, E.O. 10214 (3 CFR 1949–53 Comp. p. 408), as amended; 5 U.S.C. 22, 93, 10 U.S.C. 801–940, 5031)

By direction of the Secretary of the Navy.

ROBERT D. POWERS, Jr.,
Rear Admiral, U.S. Navy, Acting Judge Advocate General of the Navy.

MARCH 9, 1962.

[F.R. Doc. 62–2580; Filed, Mar. 15, 1962; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

Atlantic Ocean Off Camp Hero Military Reservation Montauk, N.Y.; Straits of Florida and Florida Bay, Fla.

1. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.15 establishing and governing navigation in the Atlantic Ocean off Camp Hero Military Reservation, Montauk, New York, is hereby revoked effective on publication in the FEDERAL REGISTER since the danger zones are no longer required for firing ranges, as follows:

§ 204.15 **Atlantic Ocean off Camp Hero Military Reservation, Montauk, N.Y.; antiaircraft artillery firing range, first Army [Revoked].**

[Regs., Feb. 28, 1962, 285/112 (Atlantic Ocean, N.Y.)–ENGCW–ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.95 establishing and governing the use and navigation of danger zones in the Straits of Florida and Florida Bay, Florida, is hereby amended prescribing paragraph (a) (3) (iii) to establish two additional bombing and strafing areas and revising paragraph (b) (1) through (4) to clarify the restrictions on the use of the areas, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.95 **Straits of Florida and Florida Bay in vicinity of Key West, Fla.; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, Florida.**

(a) *The danger zones.* * * *

(3) *Bombing and strafing target areas.*

* * * * *

(iii) Two circular areas located west of Marquesas Key each with a radius of two nautical miles, one having its center at latitude 24°34′30″ and longitude 82°-14′00″, and the other having its center at latitude 24°34′30″ and longitude 82°-24′00″.

(b) *The regulations.* (1) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, and give such other pertinent information as may be required in the interests of safety.

(2) Watercraft shall not be prohibited from passing through the operational training area except when the operations being conducted are of such nature that the exclusion of watercraft is required in the interest of safety or for accomplishment of the mission, or is considered important to the national security.

(3) When the warning to navigation interests states that bombing and strafing operations will take place over the designated target areas or that other operations hazardous to watercraft are proposed to be conducted in a specifically described portion of the overall area, all watercraft will be excluded from the target area or otherwise described zone of operations and no vessel shall enter or remain therein during the period operations are in progress.

(4) Aircraft and naval vessels conducting operations in any part of the operational training area will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave and upon being so warned the vessel shall leave immediately.

(5) The regulations in this section shall be enforced by the Commandant, Sixth Naval District, Charleston, S.C., and such agencies as he may designate.

[Regs., Feb. 28, 1962, 285/112–ENGCW–ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

J. C. LAMBERT,
Major General, U.S. Army, The Adjutant General.

[F.R. Doc. 62–2552; Filed, Mar. 15, 1962; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2627]

[72043]

TEXAS

Transferring Lands Comprising Portions of Laguna Atascosa National Wildlife Refuge From Department of the Navy to Immigration and Naturalization Service

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

1. Those certain acquired lands in Cameron County, Texas, aggregating 463.66 acres, which are a part of the Laguna Atascosa National Wildlife Refuge, and which were transferred from the administration of the Fish and Wildlife Service, Department of the Interior, to the Department of the Navy, for use in connection with the United States Naval Auxiliary Air Station at Port Isabel, Texas, by Public Land Order No.

1364 of November 23, 1956, are hereby transferred from the Department of the Navy to the jurisdiction of the Immigration and Naturalization Service, Department of Justice, for use in connection with its Service Officer Development Center at Port Isabel: *Provided, however,* That the jurisdiction and use of the Immigration and Naturalization Service over Tracts "P" and "S", of 25.3 and 52.0 acres, respectively, as described in Public Land Order No. 1364, shall be subordinate to the primary jurisdiction of the Fish and Wildlife Service for wildlife purposes.

2. The use of all the lands transferred by this order shall be subject to the condition that the Immigration and Naturalization Service will cooperate with the Fish and Wildlife Service with relation to flight plans for both arrivals and departures, over adjoining lands of the Laguna Atascosa National Wildlife Refuge, and will assume responsibility for any damage caused to installations of the Fish and Wildlife Service as a result of its operations upon or use of the lands.

3. It is intended that the lands which are the subject of this order shall be returned to the administration of the Department of the Interior when they are no longer needed for the purposes prescribed by this order.

JOHN A. CARVER, JR.,
Assistant Secretary of the Interior.

MARCH 12, 1962.

[F.R. Doc. 62-2551; Filed, Mar. 15, 1962; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 959]

[959.302, Amdt. 2]

ONIONS GROWN IN SOUTH TEXAS

Proposed Amendment to Limitation of Shipments

Notice is hereby given that the Secretary of Agriculture is considering approval of an amendment to the limitation of shipments, § 959.302 (27 F.R. 1451, 1801), recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959).

This marketing agreement and order program regulates the handling of onions grown in designated counties in South Texas, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed amendment would prohibit the packaging and loading of onions on Sundays beginning March 25, through June 30, 1962.

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than five days following publication of this notice in the FEDERAL REGISTER.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 13, 1962.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 62–2589; Filed, Mar. 15, 1962; 8:49 a.m.]

Agricultural Stabilization and Commodity Service

[7 CFR Part 1107]

[Docket No. AO 304–A2]

MILK IN MISSISSIPPI GULF COAST MARKETING AREA

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

Pursuant to the provisons of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Secretary, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Mississippi Gulf Coast marketing area. Interested parties may file written exceptions to the decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the third day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order were formulated, was conducted at Gulfport, Mississippi, on October 26, 1961, pursuant to notice thereof which was issued October 17, 1961 (26 F.R. 9912).

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

1. Modification of diversion privileges.
2. Payments to a cooperative association for milk received from such cooperative association.
3. Pooling requirements for a supply plant operated by a cooperative association.
4. Pooling requirements for distributing plants.

This decision pertains only to issues Nos. 1 and 2. Decision on the issues Nos. 3 and 4 is reserved for later determination.

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

1. *Modification of diversion privileges.* The "producer" and "producer milk" definitions should be modified to provide, except in the case of new producers, for unlimited diversions to nonpool plants during the months of March through August, and diversion to nonpool plants of not more than 10 days' production of any producer during the months of September through February. In addition, an alternative procedure should be provided whereby in lieu of the 10-day limitation during the months of September through February, a cooperative association may divert to nonpool plants up to 15 percent of the milk of its producer members during any such month and a proprietary handler may so divert up to 15 percent of the total nonmember producer receipts at his pool plant during any such month without affecting the status of the milk as producer milk.

Under the existing order provisions diversion of a producer's milk to a nonpool plant in any month is limited to not more than one-third of the number of days' production of such producer received at a pool plant during the month except that during any month of March through July the milk of any producer may be diverted only if such individual held producer status for the entire two immediately preceding months. Diversions between pool plants may be made at any time and no change was proposed in this regard.

Official notice is taken of the decision of the Assistant Secretary issued September 27, 1960 (25 F.R. 9378) in which it was concluded that the present diversion limitations should be adopted. The then existing provisions permitted 10-day diversions during the months of September through January and unlimited diversions during the months of February through August. Under those provisions a cooperative association in the New Orleans market had been able to associate a substantial volume of milk with the local market on the basis of limited delivery (in some cases a single day) to a pool plant. This resulted in an undue variation in producer returns in relation to producer returns under the New Orleans order, particularly during the months of March through July. The Assistant Secretary, therefore, concluded that more restricted diversion privileges were needed to assure bona fide association of milk with the market and to prevent undue variation of prices.

The more limited privileges of the existing order have been effective in deterring erratic and uneconomic shifts of supplies as between New Orleans and the Gulf Coast markets. However, cooperative associations have experienced difficulty in handling the market's reserve supply under the present diversion limitations.

Official notice is taken of the fact that the diversion limitations were suspended for the period September 1961 through January 1962 to prevent loss of producer status by established producers.

Prior to the transition from cans to farm bulk tanks, milk necessarily was regularly moved to its plant of normal receipt regardless of its ultimate disposition. Milk in excess of fluid requirements and which was to be disposed of in manufacturing uses was, nevertheless, initially moved to receiving stations or distributing plants for cooling and assembling prior to transfer to manufacturing plants. With the advent of farm bulk tanks and tank pickup, the role of a plant in cooling and assembly for transfer has been minimized if not eliminated. Cooperative associations have assumed the responsibility of transporting milk from the farm to plants and proprietary handlers generally follow the practice of accepting only those quantities of milk needed for fluid and associated operations. Milk not needed by local handlers can be most economically handled by movement directly from the farm to manufacturing outlets. Under the existing diversion provisions, whereby one-third of the days of production received at a pool plant may be diverted during the month, and with every-other-day farm pickup (which is the usual practice), any producer's milk may be diverted a maximum of only seven days in any

month. Since plants do not bottle every day during the week it is apparent that the present provisions cannot accommodate the existing market situation, particularly during the flush production months of March through August.

Proponents proposed that diversions during any month of September through February be limited to 10 days and that unlimited diversions be provided for the months of March through August. Except for the month of February proponents' proposal would restore the diversion privileges in effect prior to the November 1, 1960, amendment.

It is concluded that 10 days' diversion during any month of September through February should generally accommodate necessary diversions during such months under the existing market situation. However, greater flexibility and more economy in the handling of the market's reserve supply may be assured by providing, as an alternative during those months, that 15 percent of a cooperative's member producers' milk may be diverted by such cooperative and that other handlers may divert 15 percent of their nonmember producer receipts. While the percentage provision would allow less diversion than the 10-day limitation, it nevertheless will, in some situations implement more efficient movement of milk since regular diversion of certain routes may be accomplished during the month.

Under this percentage diversion limitation member milk could be diverted only for the account of the association. Diversion of nonmember milk would be at the direction of the operator of a pool plant. Thus, there is a clear responsibility for both cooperative associations and proprietary handlers with respect to meeting the applicable percentage limitations. It is incumbent upon a handler receiving cooperative member milk to ascertain, prior to diverting any of such milk, the basis on which the cooperative is accounting for milk which it is diverting to nonpool plants during the month. If the cooperative association is using the percentage basis for diversion, no other handler may account for milk of any of the cooperative's members under any diversion provision. It is conceivable, however, that arrangements for diversion of member milk might be made by a proprietary handler under agreement with the association whereby such diversion would be made for the account of the association. If the cooperative association is not using the percentage diversion provision, member milk may be diverted by either the proprietary handler or the association. Under any circumstance where the percentage limitation is exceeded diversions automatically would be under the 10-day limitation. A cooperative, of course, may divert under the percentage limitation while nonmember milk is diverted under the 10-day limitation, or vice versa.

During the months of March through August it is desirable that unlimited diversion privileges be provided to implement the orderly disposition of the market's necessary reserve supply and seasonal surplus. However, some safeguard is needed to deter a repetition of the situation which necessitated the present limited diversion privileges. The existing provision which prevents diversion of a producer's milk during any month of March through July if such individual did not hold producer status during the entire two preceding months is appropriate for this purpose and should therefore be retained and extended to include the month of August.

2. *Payments to a cooperative association.* The payment provisions of the order should be revised to require that a handler make payment to a cooperative association, for milk purchased from such association in its capacity as a handler, at not less than the use value of such milk computed at the specified order class prices. Such payments should be made at the same time at which payments are required to be made to a cooperative association as the authorized collecting agent for milk received directly from such cooperative's producer members. Accordingly, an advance payment should be made by the 23d day of each month for milk received during the 1st 15 days of the month at a rate not less than the applicable Class II price for the preceding month. Final payment should be made by the 13th day after the end of the month and should reflect the full use value of the milk purchased during the month less the amount of advance payments.

Proponents pointed out that there is no provision now in the order requiring payment to a cooperate association for milk purchased from such association in its capacity as a handler, i.e., milk associated with a pool supply plant operated by the association and which is transferred or diverted to the pool plant of another handler. The cooperative stated that unless a specific provision is contained in the order, a handler purchasing milk from the cooperative association in its capacity as a handler might elect to make payments directly to producers in lieu of paying the association.

Under the terms of the order a cooperative association assumes handler status only with regard to milk which it diverts to a nonpool plant for its account, or in its capacity as the operator of a pool plant. In the interest of assuring equal terms of purchase among handlers and prompt payment to producers the time and method of payment to a cooperative association in its capacity as a handler should be included in the payment provisions of the order. The Administration of the order will be implemented by specifically requiring that handlers shall pay a cooperative association not less than the prescribed minimum class prices for milk purchased from such association in its capacity as a handler. Under the terms of the existing order producers are paid semimonthly. In order that a cooperative association may pay all of its producer members on the same date on which nonmember producers are paid it is necessary that it receive prompt payment from handlers for milk which it supplies to such handlers. Requiring an advance payment on or before the 23rd day of the month and final payment by the 13th day after the end of the month, the identical dates on which payments presently are required to be made to a cooperative association as the authorized collecting agent for milk of its member producers, will facilitate this end.

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

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

1. Delete § 1107.14 and substitute therefor the following:

§ 1107.14 Producer.

"Producer" means any person, other than a producer-handler, who produces milk in compliance with Grade A in-

spection requirements of a duly constituted health authority which milk is received during the month at a pool plant or diverted pursuant to paragraphs (a) through (e) of this section: *Provided,* That milk diverted in accordance with the provisions of said paragraphs shall be deemed to have been received by the diverting handler at the location of the pool plant from which it was diverted: *And provided further,* That if a handler diverting milk pursuant to paragraph (d) or (e) of this section, diverts in excess of the limits prescribed all diversions by such handler during the month shall be pursuant to paragraph (c) of this section and: *Provided also,* That if a handler diverting milk pursuant to paragraph (b) or (c) of this section, diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant:

(a) Diverted by the operator of a pool plant to the pool plant of another handler;

(b) Diverted to a nonpool plant(s) by the operator of a pool plant or by a cooperative association during any of the months of March through August: *Provided,* That this diversion privilege shall be applicable only to the milk of those dairy farmers who held producer status throughout the entire two immediately preceding months, except that only for the purpose of this paragraph, a dairy farmer who was in noncompliance with the Grade A requirements of a duly constituted health authority during any part of the two immediately preceding months shall be considered to have maintained producer status during the period of such noncompliance;

(c) Diverted to a nonpool plant(s) on not more than 10 days (5 days in the case of every-other-day delivery) during any month of September through February except that this paragraph shall not be applicable, (1) if the dairy farmer is a member of a cooperative association and such cooperative association during the month diverts milk of any of its producer members pursuant to paragraph (d) of this section, or (2) if the dairy farmer is not a member of a cooperative association and the diverting handler during the month diverts milk of any nonmember producer from his plant pursuant to paragraph (e) of this section;

(d) Diverted during any month of September through February to a nonpool plant(s) as the milk of a member of a cooperative association for the account of such association if the amount of milk so diverted does not exceed 15 percent of the volume of milk from all dairy farmer members of such cooperative association received at pool plants during such month; or

(e) Diverted during any month of September through February to a nonpool plant(s) as milk of a dairy farmer who is not a member of a cooperative association by a handler in his capacity as the operator of a pool plant from which the quantity of milk of nonmember dairy farmers so diverted does not exceed 15 percent of the total receipts of milk at such plant from nonmember dairy farmers.

2. Delete § 1107.15 and substitute therefor the following:

§ 1107.15 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk received at a pool plant directly from producers or diverted in accordance with the provisions of paragraphs (a) through (e) of § 1107.14.

§ 1107.80 [Amendment]

3. In § 1107.80 renumber paragraph (d) as (e) and add a new paragraph (d) to read as follows:

(d) To a cooperative association for milk received from such association in its capacity as a handler as follows:

(1) On or before the 23d day of each 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 association during the first 15 days of the current month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the utilization value of such milk computed at the applicable class prices less amounts paid pursuant to subparagraph (1) of this paragraph.

Signed at Washington, D.C., on March 13, 1962.

CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 62-2590; Filed, Mar. 15, 1962; 8:49 a.m.]

[7 CFR Part 1120]

[Docket No. AO328]

MILK IN LUBBOCK-PLAINVIEW, TEX., MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Secretary, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Lubbock-Plainview, Texas, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Lubbock, Tex., on June 6–10, 1961, pursuant to notice thereof which was issued May 11, 1961 (26 F.R. 4198). The period until September 2, 1961, was allowed interested parties for the filing of briefs on the record.

The material issues of record related to:

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

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

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

(a) The scope of regulation,

(b) The classification and allocation of milk,

(c) The determination and level of class prices,

(d) The distribution of proceeds to producers, and

(e) Administrative provisions.

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

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

Although the marketing area, as hereinafter proposed to be defined, is located entirely within the State of Texas, a substantial proportion of the regular milk supply of the market originates on farms in the adjacent State of New Mexico. In addition, a New Mexico handler distributes milk processed at his Roswell and Carlsbad, New Mexico, bottling plants, in two counties of the proposed marketing area in direct competition with local handlers. Milk produced in the State of Oklahoma and processed in an Oklahoma City plant regulated under the Oklahoma Metropolitan order is regularly distributed through stores in both Lubbock and Plainview.

Handlers who would be fully regulated under this order regularly distribute milk, both within the local market and in the adjacent Texas Panhandle and Central West Texas markets, in direct competition with handlers regulated under the Panhandle and Central West Texas Federal orders. A large proportion of the regular supply for the Panhandle market originates on farms in the State of Oklahoma and dairy farmers in the State of New Mexico constitute a significant part of the regular supply for the Central West Texas market. In addition, local handlers rely on Panhandle handlers for supplemental milk supplies.

Milk in excess of the fluid requirements of the local market is transferred from local plants, or diverted directly from farms, to unregulated manufacturing plants in New Mexico and Oklahoma and to manufacturing plants regulated under the North Texas order for manufacturing uses. Products processed at such plants are disposed of on the national

market in direct competition with similar products from all parts of the country.

From the foregoing it is concluded that the handling of all milk in the proposed marketing area is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in the handling of milk and its products.

2. *Need for an order.* The issuance of a marketing agreement or order will tend to effectuate the declared policy of the Act.

The market has experienced a long history of disorder and unrest and producers have periodically manifested interest in Federal regulation. To this end numerous organizational attempts have been made by producers and several previous requests for a Federal order have been presented to the Department of Agriculture. However, those organizational efforts were not successful and the matter of Federal regulation has not previously been considered at a hearing because of the lack of unified producer support. During the past several years the majority of the producers on the market have joined one or the other of the two proponent cooperatives and these two cooperatives, on behalf of their producer members, have jointly requested Federal regulation.

It is apparent that producers generally lack confidence in the existing marketing system. Much of this lack of confidence stems from the fact that producers do not have access to the necessary market information which would permit them to market their milk most efficiently, that they have no voice in establishing market prices, and no opportunity of checking the butterfat tests of their milk.

Milk for the local market is secured in direct competition with milk moving to the adjacent Texas Panhandle and Central West Texas Federal order markets. Producers are aware that their neighbors shipping to these markets have assurance that their returns reflect the actual utilization value of their milk and actual butterfat content thereof at the specified order prices. While producers do not have access to utilization data of either individual handlers, or the market as a whole, they recognize that local handlers have a higher average Class I utilization than that of regulated handlers in adjacent markets. While local producer returns are related to returns in these adjacent markets they obviously do not reflect fully the value of the market's higher Class I utilization.

Handlers generally have maintained their producer receipts in close alignment with their fluid requirements and rely on adjacent Federal order markets for supplemental supplies. To this end, at least two of these handlers have established base plans. However, once bases were established they have not been consistently applied. Since January 1958, only one handler, and for two months only, has actually paid his producers uniformly on the basis of base and excess prices. On occasion individual producers or groups of producers have been paid base and excess prices while other dairy farmers delivering to the same plant have received a flat price for all of their deliveries.

One handler, drawing a substantial part of his supply from New Mexico producers, has followed the practice of diverting milk in excess of his fluid requirements directly to the Portales, New Mexico, receiving station of a handler distributing milk in the local market. Producers are generally paid for such milk by the New Mexico handler at a price of 75 or 80 cents per pound of butterfat. Such milk is then moved to the Carlsbad or Roswell bottling plants of the New Mexico handler who distributes milk from such plants in a portion of the local market in direct competition with local handlers.

The existing market situation constitutes a continuing threat to the maintenance of an adequate, dependable supply of pure and wholesome milk for the local market. The issuance of a marketing order will contribute to greater market stability and assure orderly marketing and hence will tend to effectuate the declared policy of the Act. Under a uniform plan for the classification and pricing of milk according to its use and with provision for the verification and audit of each handler's records, producers will share equitably the total Class I sales of the market as well as the burden of carrying the market's reserve supply. The order will provide the means whereby producers will have access to the market information necessary for the efficient marketing of their milk and all interested parties will have opportunity to participate, through the public hearing procedure, in the formulation of and amendment of the several order provisions.

3. *Order provisions. Scope of regulation.* The type of regulation effectuated by a milk order is essentially a matter of establishing minimum prices to dairy farmers who produce milk for the market. The scope of such regulation may be made specific by providing an appropriate definition for the term "marketing area," and describing the categories of persons, plants and milk products to which the applicable provisions of the order relate.

Marketing area. The Lubbock-Plainview marketing area should include all of the territory within the 17 Texas counties of Bailey, Castro, Cochran, Cottle, Crosby, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Lamb, Lubbock, Lynn, Motley, Terry, and Yoakum, including all territory therein which is occupied by Government (municipal, State or Federal) installations, institutions, and other establishments.

The marketing area herein proposed is somewhat in excess of 16,000 square miles in area and has a population of 350,601. The principal cities and towns in the area include the cities of Lubbock, with a population in 1960 of nearly 130,000, Plainview with approximately 19,000 inhabitants and Brownfield and Levelland. Lubbock and Hale counties (Plainview is in the latter county) form the most important centers of population in the marketing area, counting 156,000 and 37,000 inhabitants, respectively. In these two counties are found the most important institutions in the marketing area. These include Texas Technological College and Lubbock Christian College at Lubbock, Wayland College at Plainview, and Reese Air Force Base at Lubbock.

The counties of Lamb and Hockley, adjacent to Lubbock and Hale, are populated by about 22,000 inhabitants each. Elsewhere the area is essentially rural in character and population density is relatively low. Nevertheless, each segment of the area represents a substantial area of sales for handlers who will be regulated.

The sale of milk for fluid consumption in all counties in the marketing area is subject to essentially the same standards of health regulation. The marketing area lies entirely within the State of Texas and the health regulations concerning milk sold there are authorized under the Texas Milk Grading and Labeling Law and the specifications and requirements issued pursuant to it. The Texas law and regulations in turn are based on the 1953 edition of the United States Public Health Code.

Within the marketing area there are three health authorities which administer regulations concerning minimum health standards for milk sold within their jurisdictions: those of the City of Lubbock, the City of Plainview and of a five-county area which operates out of Brownfield (Terry county). These regulations and ordinances are issued and auhorized under the State law and may not vary significantly from its terms. All handlers operating processing facilities in the area distribute milk within the jurisdictions of each of the health authorities. Hence, it is evident that fluid milk processed for sale moves freely within the area and that there are no obstacles to such movement.

Although none of the three handlers whose plants would be fully regulated under the terms of the recommended order does business in each of the counties recommended for inclusion in the marketing area, each county represents a substantial area of distribution for one or more of these handlers. All three handlers generally compete in the eleven counties of Baily, Cochran, Crosby, Floyd, Garza, Hale, Hockley, Lamb, Lubbock, Terry, and Lynn. In addition, Bell Dairy Products Company and the Borden Company, both of Lubbock, have substantial sales in Gaines and Yoakum counties and the Borden Company also has general distribution in Dickens county. Cloverlake Dairy Foods of Plainview has extensive sales in Castro, Cottle and Motley counties.

Within the recommended area, the three handlers generally compete with each other and/or with regulated handlers under the Central West Texas, Texas Panhandle, North Texas, Red River Valley and Oklahoma Metropolitan Federal orders. Only in Yoakum and Gaines counties is there any distribution in the proposed area by a handler who either is not already fully regulated under another Federal order or who would not be fully regulated under this proposed order. Price's Creamery, Inc., operating bottling plants at Roswell

and Carlsbad, New Mexico and a receiving and manufacturing plant at Portales, New Mexico, proposed that these two counties be excluded from the marketing area.

Gaines and Yoakum counties contain 2.3 and 3.5 percent, respectively, of the population of the marketing area. Seven percent of the Borden Company's total sales and one percent of Bell Dairy Products Company's total sales are made in these two counties whereas less than 2 percent of the combined sales of Price's Roswell and Carlsbad plants are made there. On the basis of data presented on the record the Borden Company has approximately 30 percent of the total sales in Yoakum county and from 20 to 30 percent of the total sales in Gaines county. Bell Dairy Products Company's sales are something in excess of 5 percent of the total sales in both counties. Execpt for Price's sales, which represent roughly 10 percent of the total, the remaining sales are made by regulated handlers from other Federal markets, primarily Central West Texas.

It is clear that handlers who will be fully regulated under the terms of the recommended order or who are presently regulated under nearby Federal orders have at least 80 percent of the total Class I sales in Yoakum county and 90 percent of such sales in Gaines county. It must be concluded therefore that these two counties constitute an integral part of the Lubbock-Plainview market and they therefore are included in the recommended marketing area.

It is intended that the marketing area shall include all territory occupied by Government reservations, institutions or other such establishments, whether municipal, State or Federal, within the boundaries of the area as defined. The quality requirements for milk for such installations are similar to those for milk sold in other parts of the marketing area. These, by location and past performance, represent logical areas of distribution for dealers who are in substantial competition with one another in the marketing area. Unless they are included, regulated handlers will be placed at a serious competitive disadvantage in competing with unregulated dealers for such sales. The inclusion of these areas will tend to assure uniform and equal minimum prices for milk among handlers.

The marketing area as herein defined comprises a contiguous territory which is generally served by the same handlers. It is in reality a single milk market, all parts of which are regulated by health ordinances generally similar in scope and enforcement, which constitutes a practicable unit for the proposed regulation.

In addition to the seventeen counties herein recommended for inclusion in the marketing area proposals considered at the hearing also would have included Parmer and Kent counties. While handlers supported the inclusion of these counties it is apparent that none of the three handlers have any distribution there. Under the circumstances there is no basis for their inclusion in the marketing area.

Milk to be priced. The minimum class prices under the order should apply to that milk which is produced in compliance with the Grade A inspection requirements of a duly constituted health authority and which is regularly received at plants primarily engaged in the fluid milk business and which process milk for distribution on retail or wholesale routes in the marketing area, or at plants which are regular and substantial suppliers of milk to such processing plants. This milk may be identified by providing appropriate definitions of the terms "plant", "distributing plant", "supply plant", "pool plant", "handler", "producer", "producer handler", "producer milk", "other source milk", and "route".

These definitions are designed to identify the supplies of milk on which the market regularly and normally depends. Under the terms of the order herein recommended milk may be disposed of for fluid consumption in the market under a wide variety of circumstances. It is necessary, therefore, to establish definitive standards of performance which may be used in determining which plants and what milk constitute the regular sources of supply and therefore becomes fully subject to regulation. Such standards are set forth in the order and apply uniformly to all plants wherever located. Any plant, regardless of location, may be brought under regulation by performing in the manner prescribed. Any plant may be relieved from regulation by no longer operating in a way that brings it within the scope of the order. Thus whether a plant will be fully or partially regulated or unregulated is determined by the decision of the plant operator.

Under the plant definition herein provided all of the operations conducted on the premises of an establishment operated as a single unit for the purpose of receiving milk for assembly and transfer, or for processing and/or packaging milk and milk products are operations of the plant. A facility or establishment functioning only as a transfer point for transferring milk from one tank truck to another, or as a distribution depot for storage of packaged fluid milk products in transit on routes would not itself constitute a plant.

To assist in the identification of those plants which are to be subject to full regulation a route definition is provided. A route is defined as any delivery of a fluid milk product from a plant to wholesale and retail outlets other than a delivery to another plant. Disposition by a vendor, from a plant store or through a vending machine is treated as a route disposition of the bottling plant supplying the milk for such disposition.

Plants may be regulated on the basis of their performance either as distributing plants or as supply plants. To qualify as a distributing plant, a plant must dispose of Grade A fluid milk products on routes in the marketing area. A plant acting as a supplier of Grade A milk, skim milk or cream to a distributing plant is termed a supply plant. It is not necessary, however, that all distributing and supply plants be subjected to full regulation. Performance standards should be sufficiently flexible to permit intermittent shipments from supply plants not regularly identified with the local market, and direct distribution on routes from distributing plants which have only a minor part of their overall fluid milk business in the marketing area, without subjecting such plants to full regulation. Full regulation of such plants is unnecessary to accomplish the purpose of the order and might result in placing such plants at a competitive disadvantage in supplying the unregulated but primary market with which they are normally associated.

A distributing plant, other than that of a producer-handler, is qualified as a pool plant in any month in which Class I milk equal to not less than 50 percent of Grade A milk received directly from dairy farmers (including receipts from a cooperative association acting as the handler on farm tank milk which it causes to be picked up at the farm and delivered to the plant) is disposed of in the form of Class I milk on routes, if the lesser of 15 percent of such receipts or a daily average of 1,500 pounds is disposed of on routes in the marketing area. A plant which distributes less than 50 percent of its receipts from dairy farmers as Class I milk should not be considered as primarily in the fluid milk business and any plant which distributes the lesser of 15 percent of such receipts or 1,500 pounds on a daily average on routes in the marketing area should not be considered as substantially associated with this market.

Distributing plants in the market rely primarily on direct producer receipts as a source of milk supply and there is no reason to expect a change in this situation. Nevertheless, the order should make provisions whereby supply plants may qualify for pooling. It is therefore provided, that a supply plant may be qualified as a pool plant in any month in which 50 percent of its receipts of Grade A milk direct from dairy farmers (including receipts from a cooperative association acting as the handler on bulk tank milk which it causes to be picked up at the farm and delivered to the plant) is moved to a distributing plant(s) which disposes of 50 percent or more of its total receipts of Grade A milk and at least 15 percent or 1,500 pounds on a daily average, whichever is less, on routes in the marketing area. A plant shipping 50 percent or more of its Grade A receipts from dairy farmers to distributing plants substantially associated with the local market has demonstrated its primary association with the market for the month. Any plant meeting this shipping requirement in each of the months of September through November, on its election, should be permitted to retain pooling status during the months of March through June, regardless of shipments.

The months of March through June are the months of flush production when it would be expected that the regular direct receipts would most likely exceed fluid requirements. In such cases it would be more economical to leave the more distant milk in the country for manufacturing and utilize the nearby milk for Class I use. Performance stand-

ards under the order should not force milk to be transported to distributing plants for the purpose of maintaining pooling eligibility. Accordingly, supply plants which have demonstrated their association with the market during the months of September through November, when milk supplies are normally shortest, should be permitted to retain pooling status during the flush production months. However, there is no reason why such plant should be required to pool during any period in which it does not meet the shipping requirements. To avoid any misunderstanding between the operator and the market administrator as to the plant's status during the flush production months, the plant operator must notify the administrator in writing prior to the first day of any month of March through June if he does not wish to exercise his option for automatic pooling status for the remainder of the period through June.

Proponents proposed that a supply plant be required to meet a 75 percent shipping requirement during the months of September through November to qualify for automatic pooling during March through June. A plant meeting the regular shipping requirements for pooling in each of the short production months has sufficiently demonstrated its association with the market and it would be inappropriate, and it is unnecessary, to provide greater requirements for qualification for automatic pooling during the flush production months.

One handler in the market maintains an ungraded manufacturing operation in the same building as his Grade A plant. The manufacturing operation is not approved by any health authority for receiving, processing or packaging any Grade A fluid milk product and the applicable health regulations do not permit transfer of milk from the ungraded to the Grade A operations. If Grade A milk is moved to the ungraded operation it loses its status as Grade A milk. The ungraded operation has no facilities for receiving fluid milk and there is no pipeline connecting the two plants. Under such circumstance there is no reason for restricting the operation of the ungraded facilities to any greater degree than is the case in the operation of any other ungraded plant. However, proper safeguards must be provided to insure that the ungraded and graded portions of any pool handler are maintained as separate entities. It is concluded, therefore, that if a portion of a pool plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for receiving, processing or packaging any fluid milk product for Grade A disposition, it should not be considered a part of the pool plant. However, if the graded and ungraded operations are not maintained separately, the entire operation of the plant would be considered that of a pool plant and all ungraded milk received at such plant would be considered as other source receipts.

Some milk is distributed in the marketing area from plants which also distribute milk in other Federal order markets. Such distributing plants may meet the pooling requirements of both this order and another Federal order. Since it is not necessary that a plant be fully regulated under each of two orders, standards are needed whereby the market administrator may ascertain whether such a plant should be regulated under this order.

Federal orders generally provide that a distributing plant meeting the pooling requirements of more than one order shall be regulated under that order covering the area in which the greater volume of Class I sales are made and this is concluded to be an appropriate standard under this order. It should be recognized, however, that with recent technological improvements in the production, processing and distribution, routes have been greatly extended. It is not improbable that a plant could have virtually the same volume of distribution in each of two markets and with a relatively inconsequential change in the proportion of distribution as between these markets, regulation of the plant could shift back and forth between the two orders on a month to month basis. Such a situation would not be in the best interest of orderly marketing. It is possible, due to a management error or error on the part of an employee or a route salesman, that an inadvertent sale might result in an unintended change in pooling. It is also possible that a change in classification during audit might produce the same result.

Any uncertainty as to the market in which a plant is to be pooled in any particular month will be substantially eliminated if a distributing plant meeting the pooling requirements of both this order and another Federal order and having a greater proportion of its Class I disposition in the marketing area regulated by such other order but which was pooled under this order in the most recent month is permitted to retain pooling status under this order until the third consecutive month in which a greater volume of Class I sales is made in such other marketing area. It should be recognized, however, that the provisions of such other order may require the plant to be pooled under that order, in which case the plant should be exempted from regulation under this order except for a requirement to file reports and permit verification.

Official notice is taken of the fact that the other Texas orders have recently been amended to include similar provisions to those herein proposed to deter plants from changing back and forth between orders on a month-to-month basis. To assure that the provisions of the several orders are compatible, provision also should be made to exempt a distributing plant doing a greater proportion of its Class I business in this marketing area but which, nevertheless, retains pooling status for the month under another order.

Under the provisions as herein recommended, a supply plant would be regulated under this order in any month in which 50 percent of receipts from dairy farmers are shipped to the market. It is, therefore, unnecessary to make provision for supply plants meeting the pooling requirements of two orders. Any plant shipping 50 percent of its receipts to the local market should be considered as primarily associated with the market and should therefore be fully regulated.

At least one State institution operates a processing facility in the marketing area. Where such operations are confined to the distribution of milk processed and packaged on the premises, or on the premises of other State institutions, such institutions should be exempted from regulation under the order. There is no need to regulate the activities of States in supplying the needs of their own institutions. However, such institutions should not be permitted to deliver milk in excess of their fluid requirements to a pool plant(s) as producer milk. Neither should they be permitted to receive fluid milk products from pool handlers as other than Class I milk. The order provides, therefore, that receipts at a pool plant from a State institution which processes or packages milk for distribution only on its premises or on the premises of other State institutions shall be treated as other source milk and any receipts by such institution of fluid milk products from a pool handler shall be classified as Class I.

Producer-handler. A producer-handler should be defined as any person who operates a dairy farm and a distributing plant but who, during the month, receives no fluid milk products from other dairy farmers or from sources other than pool plants.

There is only one known producer-handler operation in the market and there is no indication that this operation has been a disturbing factor in this market. A producer-handler conducts an integrated operation—processing, packaging, and distributing milk of his own farm production. Full regulation of such individuals would provide considerable administrative difficulty and is not considered necessary under the existing market situation.

It is intended that the exemption from pricing and pooling of such operations shall be limited to bona fide producer-handlers. It is appropriate, therefore, to provide that producer-handler status shall be conditioned on satisfactory proof that the maintenance, care and management of the dairy herd and other resources necessary to produce milk and the processing, packaging, and distribution operations are the personal enterprises and conducted at the risk of the person involved.

To permit verification of a producer-handler's continuing status and to facilitate accounting with respect to receipts from pool handlers, the order provides that a producer-handler shall make reports at such time and in such manner as the market administrator shall require.

Handler. A "handler" should be defined as any person in his capacity as the operator of a pool plant or any nonpool distributing or supply plant and any cooperative association with respect to producer milk diverted for the account of such association to a nonpool plant and, at its election, any cooperative association with respect to the milk of its

member producers 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 association.

The handler who receives milk from producers is held responsible under the terms of the order for reporting receipts and utilization of such milk and for proper payment to producers and to the pool. Inclusion in the handler definition of the operator of any nonpool distributing or supply plant is necessary in order that the market administrator may require reports as he deems necessary to determine the continuing status of such individuals. In the case of a distributing plant which does not acquire pool status because of insufficient sales in the marketing area, such reports are further necessary to determine the amount of compensatory payment to be made by the operator of such plant on the milk distributed in the marketing area.

Besides the possibility that a cooperative association may be a handler with respect to a plant operation, two other types of operations also may qualify it as a handler. One of these is the diversion of the milk of producers associated with the market to nonpool plants for its account. This arrangement will facilitate the disposal of milk surplus to the fluid needs of the market by cooperative associations.

The second role of the cooperative association as a handler without a plant is with respect to its operations in delivering the milk of its producer members directly from the farm to pool plants. Under the current arrangements for marketing the milk of producers using farm milk tanks, the amount of milk received and the butterfat tests thereof are determined by measurement at the farm and from butterfat samples taken at the farm. After the milk has been pumped into the tank truck, and commingled with the milk of other producers, there is no further opportunity to measure or sample or reject the milk of an individual producer except as the operator of the pool plant measures, samples or accepts the entire lot of milk. When such operations are conducted at the behest and under the supervision of a cooperative association, it is the association who has control over the operations with respect to individual producers. Accordingly, the association should be considered to be the responsible handler for reporting, accounting and payment for the milk. However, in order to allow flexibility in the marketing arrangements between cooperative associations and operators of pool plants, the order should make provision for the transferee handler to be the responsible handler upon notification by the association. The milk delivered to a pool plant in this manner is treated as a receipt of producer milk by the cooperative at a pool plant in the same location as the pool plant at which the milk was physically received. This transaction is treated as an interhandler transfer under the terms of the order.

Producer. The term "producer" is intended to distinguish those dairy farmers who constitute the regular source of Grade A milk supply for the market to whom the minimum prices specified under the order must be paid. Under the definition a producer is any person, other than a producer-handler or a State institution (pursuant to § 1120.63) who produces Grade A milk which milk is received at a pool plant.

When producer milk is not needed in the market for Class I use the movement of such milk to nonpool plants for manufacturing uses should be facilitated. Allowing for unlimited diversion during those months when supplies are heaviest will contribute to this end. Unlimited diversion is neither necessary nor desirable during the other months of the year when milk of producers is most needed to supply the Class I needs of the market. It is necessary, however, to recognize the fact that there are day-to-day variations in both production and sales, particularly since bottling operations are not conducted seven days a week. To accommodate efficient handling of the regular milk supply, therefore, it is provided that during any month of July through February milk may be diverted to a nonpool plant on not more than 15 days and still retain status of producer milk under the order. Milk diverted in excess of 15 days would not be included as a receipt of producer milk.

Proponents asked that cooperative associations be permitted the right of unlimited diversions and that diversions by proprietary handlers be restricted to not more than 15 days in any month. It would not be appropriate to permit cooperative associations greater diversion privileges than are provided for other handlers. As has been previously indicated, local handlers generally have maintained a very high Class I utilization. It is intended that the order shall assure an adequate, but not excessive supply of milk for the fluid market. The order provisions should not be drawn so as to encourage an excess volume of milk to associate with the pool. During the months of July through February it is not necessary to accommodate diversions to nonpool plants except insofar as may be necessary to assure orderly handling of weekend surpluses.

Milk disposed of to Government installations under contract sales must meet specified standards patterned after the U.S. Public Health standards which are similar to those in effect in other parts of the area. It is intended that dairy farmers whose milk is received at a plant supplying contracts for Government installations in the marketing area shall be considered as qualified producers in any month when their milk is so disposed of, if the plant at which their milk is first received is a fully regulated pool plant during the month.

The term "producer milk" is intended to include all skim milk and butterfat contained in milk produced by producers and received at a pool plant directly from such producers or by a cooperative association in its capacity as a handler on bulk tank milk which it causes to be picked up at the farm. As previously indicated the latter milk is treated as a receipt by the cooperative at a pool plant at the location of the pool plant where physically received. The term also includes any diverted milk of producers within the limitation prescribed in the producer definition. Such milk is treated as a receipt of producer milk at the location of the pool plant from which diverted.

Other source milk. The term "other source milk" should be defined as all skim milk and butterfat utilized by a handler in his operations except fluid milk products received from pool plants, and from cooperative associations acting as the handler on bulk tank milk, inventory in the form of fluid milk products and current receipts of producer milk. The term also should include all skim milk and butterfat in products other than fluid milk products from any source, including those produced at the handler's plant during the same or an earlier month, which are reprocessed or converted to other products during the month. If other source milk is disposed of in Class I products, partial pricing and regulation is provided under the compensatory payment provisions. Defining other source milk in this manner will insure uniformity of treatment to all handlers under the allocation and pricing provisions of the order.

Classification of milk. A classified use plan must be established to insure that all milk and milk products are fully accounted for by the handler responsible for accounting and reporting to the market administrator and for making payments to producers. Accounting for milk and milk products on a skim milk equivalent and butterfat basis and pricing in accordance with the form in which or the purpose for which such skim milk and butterfat are used or disposed of either as Class I milk or Class II milk, is the most appropriate means of securing complete accounting of all milk involved in market transactions.

Milk is disposed of in the market in a wide variety of forms representing different proportions of butterfat and skim milk components of milk which may be greatly changed from the proportions of such butterfat and skim milk in milk as it is first received. Because intermarket transfers of milk are necessarily included in the accounting procedure it is essential that the accounting procedure employed conform with that used in other Federal order markets. The skim milk and butterfat accounting system provided for in the order recognizes the procedure generally used in Federal order markets for verification of the receipts and utilization of milk and milk products and will provide for uniformity in application of the accounting system to all handlers involved.

Only producer milk is intended to be priced and pooled under the order. However, milk may be received at pool plants not only from producers but also from other handlers and other sources and commingled in handlers' plants. It is necessary, therefore, to classify all receipts of milk and milk products in a plant to properly establish the classification of producer milk and to apply the provisions of a classified pricing plan to such milk.

To implement the drafting of the classification provisions of the order a defi-

nition of "fluid milk products" is provided. The term is intended to include those products which are generally required to be derived from milk and milk products from approved sources of supply. These are the products which are classified as Class I milk under the classification herein provided.

The extra cost incurred by producers in producing quality milk and getting it delivered to the market in the condition and in the quantities needed by the market necessitates price for milk used in Class I products somewhat above the price of milk used in manufactured products. This higher price should be established at a level which will provide sufficient incentive to producers, through the blended price returns, to encourage the production of those quantities of milk needed for Class I use plus a necessary reserve to accommodate fluctuations in the market demand.

Milk not needed for Class I uses is disposed of in the manufacture of various dairy products which compete in a national market with similar products made from unapproved milk. Milk so used is classified as Class II milk and priced in accordance with its value in such outlets.

Under the proposed classification scheme Class I milk would be all skim milk (including reconstituted skim milk) and butterfat disposed of in the form of milk, skim milk, buttermilk, concentrated milk, flavored milk drinks, cream (except aerated cream products), cultured sour cream and sour cream products labeled Grade A, and any mixture of cream and milk in fluid form except that disposed of to bakeries and other commercial food processing plants, or as ice cream and other frozen dessert mixes, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers. Skim milk and butterfat not specifically accounted for in Class II would also be classified as Class I.

When fortification of fluid milk products is involved it is intended that the extent of classification as Class I shall be only the weight of an unfortified product of the same nature and butterfat content. The skim milk equivalent of the added solids in excess of such weight should be classified as Class II.

When nonfat milk solids are added to a fluid milk product for the purpose of fortification such solids must be in the form of nonfat dry milk or condensed skim milk. If such solids are to be derived from producer milk, the skim milk must first be processed into usable form; i.e., nonfat dry milk or condensed skim milk. Such products processed from producer milk have no greater value for fortification purposes than similar products purchased on the open market. Such products are used in fortification to increase the palatability of, and hence the salability of, the finished product. Fortification only slightly increases the volume of the product and under no circumstance can it be concluded that the solids displace producer milk beyond the minor increases in volume which result.

When reconstitution, rather than fortification, is involved it is essential that the full skim equivalent of the nonfat milk solids used be classified in Class I. Unlike fortification, when nonfat milk solids are used in reconstituting any fluid milk product they displace in Class I use a volume of producer milk equal to the volume of the finished reconstituted product. Unless handlers are required to account for such solids on a skim milk equivalent basis in Class I there would be a substantial incentive for them to reconstitute wherever possible. This would tend to result in unequal costs as between handlers. Further, if the order permitted handlers to obtain unpriced milk for Class I uses wherever it was advantageous to do so, while producer milk was utilized in Class II, it would not be effective in carrying out the purpose of the Act and the market would be deprived of a dependable milk supply.

When flavoring and other nonmilk additives are used in processing any milk product, it is intended that the dry weight of such additives shall be deducted in determining the amount of skim milk and butterfat to be accounted for. This is consistent with the procedure employed in adjacent Federal order markets and will implement the accounting for all skim milk and butterfat utilized.

All skim milk and butterfat received for which the handler cannot establish utilization should be classified as Class I milk except for that shrinkage for which a Class II classification is provided, as hereinafter discussed. This procedure is necessary to remove any advantage which might occur to handlers who fail to maintain complete and accurate records and will assure producers full value for their milk according to use.

All skim milk and butterfat used to produce products other than those which are classified as Class I should be classified in Class II. This classification would encompass all of those products which are generally considered as manufactured milk products not required by the health authorities to be made from milk from approved sources of supply, including fluid milk products disposed of to bakeries and other food product manufacturing establishments for manufacturing uses.

Handlers maintain inventories of milk and milk products which must be considered in accounting for receipts and utilization. The accounting procedure will be facilitated by providing that end-of-month inventories of Class I products shall be classified as Class II milk, regardless of whether such products are in bulk or packaged form. Inventories of such products under the allocation procedure hereinafter set forth are subtracted from any available disposition in the following month after the prior allocation of other source receipts to the lowest available use class. The higher use value of any fluid milk product in inventory, but which is allocated to Class I milk in the following month, should be reflected in returns to producers. This procedure will deter any handler from obtaining a pricing advantage by manipulation of inventories on a month-to-month basis and at the same time generally preserves the principle that producer milk shall have prior claim on Class I utilization. To implement these conclusions, inventories of fluid milk products on hand at a pool plant at the beginning of the month in which a plant is first pooled shall be treated as a receipt of other source milk at such plant during the month.

Losses of skim milk and butterfat experienced in plant operations must be considered in a full accounting procedure, although the handler realizes no return on such losses. Such disappearance is termed "shrinkage" and should be considered as Class II disposition to the extent that the amount is reasonable and is not the result of incomplete or faulty records.

Plants which are operated in a reasonably efficient manner and in which accurate records are maintained should not experience a normal shrinkage loss of more than 2 percent. Any shrinkage in excess of this amount should be classified in Class I. This procedure is reasonable and necessary to implement the classified pricing plan and will encourage maintenance of adequate records and efficient handling of milk.

To implement the division of the maximum 2-percent shrinkage allowance between handlers where interhandler transfers are involved, and particularly in recognition of the fact that the order herein recommended provides that a cooperative association shall be the responsible handler for milk picked up at the farm in tank trucks under its control and delivered to the plants of other handlers, it is desirable that the order provide the basis of allocating shrinkage as between handlers.

There is no question but that under normal circumstance losses connected with processing and packaging exceed those of the receiving operations. Experience in other Federal order markets indicate a one-half of 1 percent shrinkage allowance for a receiving operation to be appropriate. Such an allowance is considered to be a reasonable allowance and gives assurance to the receiving handler that he will be able to account for his actual shrinkage experience within this limit as Class II milk. The remaining 1.5 percent shrinkage allowance assures the transferee handler of a reasonable share of the total allowable shrinkage. Where the transferor handler is a cooperative association delivering bulk tank milk and the transferee handler is purchasing such milk on the basis of farm weights and the tests of farm-drawn samples the cooperative, of course, experiences no shrinkage. In such case the order provides that the entire 2-percent shrinkage allowance goes to the transferor handler.

Since handlers may use both pool milk and other source milk in their plant operations, provision must be made for a division of plant shrinkage among the various sources of receipts. This may be accomplished by providing that other source milk shall be assigned a pro rata share of total plant shrinkage on the basis of the percentage that other source receipts are of total plant receipts.

All shrinkage on other source milk should be classified as Class II. The classification procedure herein recommended gives adequate protection in the classification of producer milk and it is

unnecessary to limit the classification of shrinkage on other source milk in Class II.

Under normal circumstances handlers experience some spoilage of fluid milk products, particularly in route returns, for which there is no return other than as animal feed. Skim milk and butterfat disposed of for animal feed should be classified as Class II milk. The returns to the handler on such disposition are significantly less attractive than for other Class II disposition (except dumpage). Further, such disposition can be verified by the market administrator and hence there is no need for any limitation on such disposition.

Dumped skim milk and butterfat should be classified as Class II provided that the market administrator is provided opportunity to witness the dumping, if he so desires. Clearly, dumpage is distinguishable from shrinkage in that it is a disposition which may be accounted for. Since it results in no financial return to the handler, however, such disposition should be considered a Class II usage. However, since it would be impossible to verify dumpage other than by witnessing, or on the basis of handlers' records, safeguards must be provided to prevent handlers from constructing dumpage records to offset excess shrinkage experience or unreported Class I disposition. Provision for advance notice to the market administrator will provide such a safeguard since the administrator then will have opportunity to witness dumpage for verification purposes.

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

Each handler must be held responsible for a full accounting of all of his receipts of skim milk and butterfat in any form. The handler who first receives milk from dairy farmers is held responsible for establishing the classification thereof, and for making payments to producers. This principle is fundamental to effective administration of the order and is consistent with the practice followed in other federally regulated markets.

Transfers. Skim milk and butterfat in fluid milk products transferred between pool plants should be classified as Class I unless both handlers indicate in their reports to the market administrator that classification should be as Class II. However, sufficient Class II utilization must be available in the transferee plant to cover any claimed Class II classification after the prior allocation of other source receipts and inventory as provided in the allocation procedure. In the event that the transferor handler has received other source milk, the classification of milk at both the transferor and the transferee plant should be conditioned on allocation of the largest possible Class I utilization to producer milk at both plants under the prescribed allocation procedure.

Skim milk and butterfat in packaged fluid milk products transferred from a pool plant to a nonpool plant should be classified as Class I and should not be subject to reclassification. Milk so moved is intended for disposition for fluid consumption and the Class I value thereof should logically accrue to the Lubbock-Plainview producers supplying such milk.

All skim milk and butterfat in fluid milk products transferred to the plant of a producer-handler should be classified as Class I and should not be subject to reclassification. Producer-handlers operate essentially only a Class I business. Any supplemental supplies of milk obtained from pool handlers may be presumed to be needed by the producer-handler for fluid use and should be classified as Class I milk. Under any circumstances, producer-handlers do not participate in the marketwide pooling procedure, and if they rely on other handlers for balancing supplies, producers should be compensated through a Class I return on any fluid milk products so transferred.

Fluid milk products transferred in bulk to any nonpool plant which is a fully regulated plant under another Federal order should be classified in the class in which assigned under such other order. This procedure will insure compatibility of classification as between orders and at the same time provide assurance to producers that their milk is being priced in accordance with its actual use value. It should be recognized that the transferee plant may be receiving milk from several plants regulated under other orders. To assure equity for local producers when milk from more than one order is involved it is provided that the classification of the transfers shall be a pro rata share of other Federal order milk classified in each class at the transferee plant under the provisions of the other order.

Fluid milk products transferred in bulk to a nonpool distributing plant, not regulated under any Federal order, should be classified as Class I to the extent of such plant's Class I sales in the marketing area, if such nonpool plant has elected to make the regular compensatory payment rather than payment of any amount by which his payment to his regular dairy farmers is less than the classification value of his milk. This procedure protects the integrity of regulation and at the same time minimizes the application of compensatory payment on such a plant.

Cream which is transferred to a nonpool plant without a Grade A certificate and which is appropriately labeled to indicate its suitability for manufacturing use only should be classified as Class II. Such cream is not disposed of by the transferee handler for Class I uses and accordingly, a Class II classification is appropriate.

Except as previously discussed skim milk and butterfat disposed of in bulk in the form of any fluid milk product to a nonpool plant either by transfer or diversion should be Class I unless specified conditions are met. The transferring handler must claim classification as other than Class I. The transferee handler must maintain adequate books and records of utilization of all skim milk and butterfat in his plant which are made available to the market administrator, if requested, for verification purposes. In addition, at least an equivalent Class II utilization of skim milk and butterfat, respectively, must have been available in such plant and the classification of skim milk and butterfat in Class I milk claimed by all handlers transferring or diverting milk to such nonpool plant may not be less than a pro rata share of the available Class I utilization assignable to Federal order receipts at such plant after the prior assignment to Class I of receipts from Grade A dairy farmers who the market administrator determines constitute the regular source of supply for Grade A milk for such plant.

Proponents proposed a mileage limitation beyond which fluid milk products could not be transferred or diverted except under a Class I classification. Such a limitation was intended for administrative convenience and conservation of administrative funds. In recognition of the widespread nature of the Federal order program and the fact that the market administrator may rely on his counterparts in other regulated markets to perform audits at distant plants with appropriate reimbursement for such service, the auditing at distant plants need be no more costly than the auditing at local plants. Hence, there is no need for the proposed mileage limitation on transfers. However, to protect the integrity of regulation it is desirable that some limitation be placed on diversions under other than a Class I classification. Unless this is done, milk produced for other markets could be associated with this market on the basis of even a single day's delivery for purposes of establishing status as producer milk and thereafter be reported as a diversion to its normal plant of receipt throughout the months of unlimited diversion. In consideration of the location of available manufacturing facilities there should be no need to divert milk for manufacturing uses in excess of 300 miles. Accordingly, it is provided that milk diverted to a nonpool plant located in excess of 300 miles from Lubbock shall be classified as Class I.

Allocation. The order class prices apply only to producer milk. Accordingly, since a plant may receive skim milk or butterfat from sources other than producer milk a procedure must be established whereby it may be determined what quantities of milk in each plant shall be assigned to producer milk. The milk from producers who constitute the regular supplies of the market should be given priority in the assignment of Class I utilization at pool plants. When milk is received from other sources it should be assigned first to Class II. Unless this procedure is followed there can be no assurance that such other source milk will not be used to displace producer milk in Class I whenever it is advantageous to the purchasing handler. If this were permitted, the order would not be effective in carrying out the purpose of the Act.

Much of the supplemental milk for the market has in the past been brought in from other Federal order markets. When such supplemental milk is actually needed and is obtained under conditions which assure that it was paid for at Class I prices under another order, it is appropriate that the need be recognized in the allocation of such milk. Provision should be made, therefore, following the assignment of unpriced other source milk to the lowest available use class and prior to the assignment of bulk receipts from other Federal order plants, for the assignment of 5 percent of producer receipts and receipts from cooperative associations pursuant to § 1120.17(c) (2) to any remaining Class II use. This procedure will permit a handler whose regular milk supplies run short to bring in milk from other Federal order markets and have it assigned to Class I.

It is intended that the order shall recognize the principle of free movement of packaged fluid milk products between Federal order markets. Accordingly, the allocation provisions provide that receipts of packaged fluid milk products from fully regulated plants under another Federal order shall be assigned to Class I.

The pricing under the several orders from which such movements of milk might occur is such that no pricing advantage would likely be gained by the movements of packaged milk between markets. However, efficiencies in scale of operation resulting from concentration of specialized packaging operations in a single plant may be advantageous to multiple plant operations. This unrestricted competition for sales among all handlers where milk is priced and regulated on a uniform basis will provide flexibility in daily operations of handlers and a better balance of milk supplies between markets will be gained by permitting the free movement of packaged fluid milk products.

Following the allocation of other Federal order receipts, the 5 percent of producer receipts deducted prior to the allocation of such other source milk is added to the remaining available Class II utilization. Inventories of fluid milk products on hand at the beginning of the month are then allocated to the lowest available use. The procedure of allocation and the computation of obligations provided will permit final classification of opening inventory in the current month and it is intended that there shall be a reclassification payment on any part of the opening inventory which is allocated to Class I. An exception to this procedure is provided in the payment provisions of the order to insure that such reclassification payment will not be applicable to milk which has previously been priced as Class I milk under another Federal order and which is carried in the handler's plant in opening inventory.

The only remaining receipts not yet allocated are producer receipts and receipts from pool plants. Receipts from other pool plants (including a cooperative association pursuant to § 1120.17(c) (2)) are allocated to the class in which assigned under the transfer provisions and the remaining utilization is presumed to represent producer receipts.

If after making the assignments prescribed in the allocation procedure, the total of all Class I and Class II milk assignable to producer milk exceeds the amount of producer milk reported by the handler such overage is assigned to the lowest available utilization and is billed to the handler at the applicable class price. In the allocation procedure recognition is taken of all reported receipts of other source milk. Hence, when utilization records indicate a disposition greater than receipts it must be presumed that the handler has underreported his receipts of producer milk.

Determination and level of class prices. To restore and maintain orderly marketing in the Lubbock-Plainview, Texas, marketing area it is essential that the class prices established be at a level which will assure the maintenance of an adequate, but not excessive, supply of quality milk for the local fluid market and at the same time assure the orderly disposition of the necessary market reserve supply.

Most of the Federal orders now in effect provide for the computation of prices at a basis test of 3.5 percent butterfat content and it is desirable for the purpose of implementing price comparisons as between Federal order markets, that a uniform standard be used in all orders. However, official notice is taken of the fact that the other Texas Federal orders presenly provide for the announcement of prices at a 4.0 percent basic test. It is anticipated that the Department will be requested at an early date to change all of the Texas orders to provide pricing on the basis of a 3.5 percent butterfat test in general conformity with other Federal orders. In the meantime, it is desirable to maintain uniformity among the several Texas orders and accordingly, provision is made under this order for pricing at a basic test of 4.0 percent butterfat.

Class I price. The price for Class I milk should be established on the basis of the Class I price effective under Federal Order 126 regulating the handling of milk in the North Texas marketing area, but at a level 10 cents higher than such price.

In providing a method by which to establish the local Class I price, consideration must be given to the prices of alternative sources of whole milk and to the national level of prices for milk used to produce manufacturing milk products. The Class I price should be expressed as a differential over manufacturing milk values. The use of manufacturing milk values will give appropriate consideration to those (national) factors underlying seasonal and secular changes in the general level of prices for milk and for manufactured dairy products. A differential over manufacturing milk values is necessary to cover the additional costs of marketing and meeting sanitation and health requirements governing the production of Grade A milk for fluid consumption in the local market. Such differential should provide returns to producers, after the proceeds from the Class I and Class II sales of the market are blended, sufficient to assure the maintenance of an adequate supply of milk to meet the markets fluid needs.

Proponents of regulation, while subscribing to the principles set forth above, were divided as to the specific terms for a Class I pricing formula. The spokesman for one group of producers, pointing out the substantial sales in the marketing area by a Central West Texas regulated handler and the competition for producers between regulated handlers under that order and local handlers, proposed that the Class I price be set at the level identical with the Class I price under the Central West Texas order applicable at Abilene, Texas. The spokesman for another producer group proposed a level of price 18 cents over the Texas Panhandle Federal order price. Local handlers, while not supporting regulation, pointed out the competition between local handlers and Panhandle regulated handlers.

The Lubbock-Plainview marketing area lies between the Texas Panhandle and the Central West Texas marketing areas and directly west of the Red River Valley marketing area. To a large extent milk for the local market is produced in direct competition with milk produced for the Texas Panhandle and Central West Texas markets. Substantial volumes of milk priced under the Central West Texas and Texas Panhandle orders are distributed on routes in the Lubbock-Plainview market. In addition, milk priced under the Oklahoma Metropolitan and North Texas orders is regularly distributed in the local market. Because of this relationship of the local market with adjacent federally regulated markets, it is essential that the prices established by the order be closely related to prices in these adjacent markets.

The Class I price under the Central West Texas order is established on the basis of the North Texas price plus 25 cents (40 cents in the Midland area). The North Texas Class I price is determined by the addition of specified differentials to a basic formula price reflecting the higher of the Midwest condensary pay price adjusted to a 4.0 percent butterfat test or a butter-powder formula. The resulting price if further adjusted to reflect the combined supply-demand situation in the North Texas, Central West Texas, Austin-Waco, San Antonio and Corput Christi markets. The Texas Panhandle Class I price is computed on the identical basis formula as the North Texas Class I price but with seasonal differentials averaging 6 cents less than those provided in the North Texas order and with no supply-demand adjustment mechanism. As a result the Panhandle price, which for the period January 1958, through December 1960, averaged approximately 3 cents under the North Texas price and 28 cents under the Central West Texas price, averaged in 1961, 12 cents over the North Texas price.

For the purpose of ascertaining current order price relationships, producer receipts and Class I sales, official notice is taken of the price and pool statistics

released by the respective market administrators of the North Texas and Texas Panhandle Federal orders for the period April through December 1961.

It is apparent that for an extended period immediately prior to 1961 both the North Texas and Texas Panhandle markets had at least an adequate milk supply. During 1961 the volume of producer milk in the Panhandle market increased approximately 14 percent over that of the previous year while Class I sales declined about 1.5 percent. In the North Texas market producer receipts increased about 8.4 percent while Class I sales increased slightly.

All of the Federal orders in the Southwest, other than the Texas Panhandle, provide for automatic Class I price adjustments to reflect current supply-demand conditions. Hence, if general interorder price alignment is to be maintained the increase in the Panhandle Class I price during 1961 in relation to the price in adjacent Federal order markets must be considered an aberration.

A Class I price for the Lubbock-Plainview market, therefore, should be based on the more normal price relationships existing among the adjacent Federal order markets in the most recent years preceding 1961. Accordingly, it is concluded appropriate that the Lubbock-Plainview price be established at a level 10 cents over the North Texas Class I price and 15 cents under the Central West Texas price. Under this level of pricing the Lubbock-Plainview Class I price during the years 1958, 1959, and 1960 would have exceeded the Texas Panhandle price by an average of 15.9 cents, 8.6 cents, 15.2 cents, respectively.

Milk under the Texas Panhandle order is priced at Amarillo which lies 124 miles north of Lubbock, while milk under the Central West Texas order is priced at Abilene, 166 miles southeast of Lubbock. Hence, the proposed pricing at Lubbock appropriately reflects the differences in distance between Lubbock and those points.

In general, prices for milk for fluid use in the Lubbock-Plainview market have reflected the average returns to producers under the Central West Texas and Panhandle markets. While the utilization of local handlers cannot be specifically determined on the basis of the hearing record, it is apparent that these handlers have attempted to tailor their producer receipts to their fluid milk requirements and have relied on adjacent markets for balancing supplies. It would appear, therefore, that the Class I price herein proposed would not have changed significantly producer returns during 1958 and 1959. However, since local producers prices during 1960 declined slightly from those paid during 1959 and Class I prices and blend prices in adjacent Federal order markets increased roughly 20 cents per hundredweight, it is concluded that had the order herein recommended been in effect during 1960, producer returns would have been increased by at least this amount. Information relative to local producer returns during 1961 is not available. Accordingly, the effect of the recommended Class I price on their returns for 1961 cannot be ascertained. Blend prices in adjacent Federal order markets, other than the Panhandle, in 1961, declined from those of 1960 as a result of the actions of supply-demand adjustment mechanism on the Class I price. Under the pricing mechanism herein recommended a similar price change would have been effected in the Lubbock-Plainview market.

Class II price. The price for milk disposed of for other than Class I uses should be established on the same basis and at the identical level of the Class II price under the Texas Panhandle order.

Some milk in excess of Class I requirements is necessary to assure an adequate milk supply for the fluid requirements of the market at all times. This excess milk must be disposed of in manufactured products which would be Class II under the proposed classification system. The price for such milk should be maintained at the maximum level consistent with facilitating its orderly movement to manufacturing outlets. The Class II price should not be at so low a level, however, as to encourage procurement of milk supplies by handlers for the sole purpose of converting such milk into Class II products.

Three levels of Class II prices were proposed at the hearing. One group of producers originally proposed the identical level herein recommended. Another group originally proposed the identical pricing mechanism, but with no adjustment during the flush months of production. (This is the present basis of pricing Class II milk under the Central West Texas order and results in any average price approximately 4 cents over that herein recommended.) At the hearing spokesmen for both groups supported a Class II level approximately 14 cents higher than that herein recommended. However, in their briefs each group suggested adoption of its original proposal.

Local handlers have only limited facilities for handling milk for other than Class I use. Such facilities as do exist provide limited outlets for milk in the manufacture of ice cream and cottage cheese. Hence, outside manufacturing plants must be largely relied upon to handle the markets reserve supply. While it is not clear on the basis of this record what facilities will likely be used in the future, much of the reserve supply in the past has been disposed of through a receiving station and manufacturing facility located at Portales, New Mexico, at prices of 75 and 80 cents per pound of butterfat ($3.00 or $3.20 per hundredweight for 4.0 percent milk). It is not clear, however, to what extent this milk was actually used for manufacturing purposes and hence to what extent the outlet will be available when milk is priced in accordance with its use value under the order.

While the Central West Texas Class II price is 15 cents higher than the price herein proposed during the months of March through June, it must be recognized that that order also provides a year-round Class II–A price applicable to milk disposed of for Cheddar cheese. In 1960, for example, the Class II–A price averaged 23 cents below the regular Class II prices. A large part of the market's reserve supply is regularly disposed of at this lower price. In recognition of the limited manufacturing facilities available to the local market, therefore, use of the Central West Texas regular Class II price is not appropriate.

Since excess milk generally must be disposed of outside the market it is apparent that the Class II price cannot be established at a level higher than that at which milk can be disposed of to such outlets. A higher price would tend to deter association of the necessary reserve supply of milk with this market. Handlers would likely find it more economical to continue to rely on adjacent markets for balancing supplies. Under such circumstances producers in those markets would carry the burden of this market's necessary reserve milk supply. To assure equity among producers as between markets, therefore, it is desirable that the Class II price be set by the identical formula and at the same level as the Panhandle Class II price. This price has generally accommodated the orderly disposition of excess milk in that market and the procedure by which the excess milk of this market would necessarily be handled is substantially similar to that in the Panhandle market.

The formula as herein proposed would base the butterfat value on the average Grade A (92-score) butter price at Chicago as reported by the United States Department of Agriculture for the month less 3 cents. This arrangement will provide assurance to local producers that the Class II price will continuously reflect competitive butterfat values on the national market.

The skim milk value under the recommended formula is based on the average Chicago daily market quotations for roller and spray nonfat dry milk as reported by the Department for the period from the 26th day of the preceding month through the 25th day of the pricing month and reflects a make allowance of five and one-half cents per pound of nonfat dry milk. The formula as herein proposed would have yielded an average Class II price of $3.26 in 1960, and $3.45 in 1961, a hundredweight for milk of 4.0 percent butterfat test. This level of pricing should assure the orderly disposition of milk in excess of the fluid needs of the market and at the same time will return to producers a competitive use value for such milk.

Butterfat differentials. The classification system hereinbefore set forth provides for a full accounting of all skim milk and butterfat handled. While milk is priced to handlers at a basic test of 4.0 percent it is intended that handlers' costs for milk shall reflect the actual use value of all skim milk and butterfat in each class. This can be accomplished by adjusting the class prices to each handler by appropriate butterfat differentials to the level that the per hundredweight cost of milk in each class for such handler reflects the actual test of milk used in such class.

The value resulting from multiplying the Chicago butter price by 0.125 for Class I milk and 0.115 for Class II milk will provide an appropriate means for adjusting the prices in the market for

each one-tenth percent variation in the butterfat content of milk used in various products. The use of the Chicago butter price as a basis of establishing butterfat differentials will provide assurance to both producers and handlers that such differentials reflect changes in butterfat value in the national market. The differentials herein recommended were generally supported by proponents and will implement continuing price alignment with prices in adjacent Federal order markets.

Location differentials. Location differentials should be established for milk received at plants located a substantial distance from the market. Such differentials recognize the principle that milk similarly used and located should be similarly priced. Milk which originates nearest the market should command a higher price than milk more distantly located in order to reflect the difference in cost of transporting it to the marketing area. No advantage can be afforded any particular group of producers if the location differentials established reflect only differences in transportation cost.

As has been previously indicated there are no supply plants presently associated with the market and in view of the structure of the market, it is doubtful that any such plant will be associated in the foreseeable future. Nevertheless, should a plant located outside of the normal area of direct delivery become associated with the market, an appropriate location differential would be necessary to assure equity as between handlers under the order.

Any application of location differentials under the present market structure would likely accrue to a distributing plant. However, the distributing plants presently primarily associated with this market are located in Lubbock or in Plainview—46 miles north of Lubbock. The only information on transportation costs presented on the record of the hearing was given by one of the proponent cooperatives. The rates charged by that association for hauling the milk of its producer members from the farm to Plainview and to Lubbock varied somewhat but not significantly. Spokesmen for that cooperative opposed any location differential at Plainview.

The handler whose plant is located at Plainview requested that the location of his plant in relation to the Panhandle market and the competitive situation existing between the two markets be recognized. To this end he proposed that the order prices be established at the identical level of the Panhandle price, or that a location differential be provided at Plainview to assure such alignment. As has been previously indicated, it is not possible to establish the Class I price in the market solely on the basis of the Panhandle price. Because the Panhandle order does not provide an adjustment mechanism for reflecting the supply-demand situation in the Class I price, that price may be either higher or lower than the price herein proposed and the prices in adjacent Federal order markets. It is expected, however, that the prices will generally be in close alignment. The establishment of a location differential at Plainview would provide the Plainview handler a competitive advantage in his competition with other regulated handlers in this market.

The location of the market in relation to other Federal order markets prescribes a very delicate pricing alignment. The level of Class I prices established f.o.b. the market is 10 cents over the North Texas price, 15 cents under the Central West Texas price and approximately 13 cents over the Panhandle price under a normal situation. Under these circumstances it is impractical to apply location differentials in most of the State of Texas since prices which would be applicable at a plant regulated under this order would be significantly under those applicable if the plant was regulated under another Texas order. Opportunity for a lower pricing would be likely to encourage manipulation of route operations by some plants now regulated under other Texas orders for the purpose of gaining a pricing advantage in their normal markets.

It is concluded that Class I location differentials should apply only at plants located at least 100 miles from Lubbock and outside of the State of Texas or within the State but north of a line represented by the northern boundaries of Parmer, Castro, Swhisher, Briscoe, Hall and Childress counties. The differential at any plant so located and 100–110 miles from the City Hall in Lubbock should be 10 cents with an additional 1.5 cents to be applicable for each 10 miles or fraction thereof in excess of 110 miles.

Under the location differentials proposed the price applicable at a plant located in Amarillo during the period 1958 through 1960 would have averaged exactly the same as the Panhandle price. In addition, the price would have been in appropriate alignment with the Oklahoma City and Red River Valley Federal order prices.

Milk may be received at a plant directly from producers or from other plants. Under such circumstances it is necessary to designate an assignment sequence which will protect producers from unnecessary transportation costs involving transfers for other than Class I use. It is provided, therefore, that for the purpose of computing allowable Class I location differentials for each handler, the Class I disposition of a plant shall first be assigned to direct receipts at such plant and any remaining Class I use shall be assigned to receipts from other pool plants in the order of their nearness to Lubbock.

The value of milk used in manufactured dairy products is affected little, if any, by the location of the plant receiving and processing such milk. Milk received at country plants need not be transported to the market for utilization in Class II. Accordingly, no location differentials are provided for milk utilized in Class II.

Payments on other source milk. As previously pointed out, the minimum class prices established under the order apply only on producer milk received at plants subject to full regulation under the order. However, milk may be disposed of for Class I utilization by and from plants not subject to full regulation under the order. Such unregulated plants may sell milk in bulk form to pool plants that in turn use it in supplying their Class I outlets, or they may sell Class I milk directly on routes as defined herein, including sales to Government installations.

The role of the classification system and the minimum prices as set forth in a Federal milk order is to insure that the price competition from reserve and excess milk will not break the market price for Class I milk, thereby destroying the incentive necessary to encourage adequate production. Because the minimum pricing and pooling program of the order is applicable only to fully regulated plants, it is necessary in order to assure continuing market stability, to remove any advantage unregulated plants may attain with respect to sales in a regulated market. Such plants have an incentive to sell their excess milk at any price which exceeds the value of the milk for manufacturing uses. If unregulated plant operators were allowed to dispose of their surplus milk for Class I purposes in the regulated market without some compensatory or neutralizing provision in the order, it is clear that the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning minimum prices to the producers for the regulated marketing area, would be defeated.

In the absence of any competitive or regulatory force which compels all handlers to pay producers for milk used in fluid outlets at a rate commensurate with its value for such use, the position of any handler who pays the Class I price is insecure, if not untenable, whenever cheaper milk is available to the market. A classified pricing program under regulation cannot be successful in the long run in insuring returns to producers at rates contemplated by the Act if it is possible for some handlers to purchase other source milk for Class I use at less than the Class I price. Any handler who finds himself in a situation where his competitors pay less for fluid milk than he pays will be compelled to resort to the same method, if possible. A price advantage in using unregulated milk is a compelling force in promoting its greater use and as a result it is possible that regular sources of regulated milk would eventually be abandoned by handlers, thus creating insecurity for themselves, producers, and consumers alike.

It is concluded that provision must be made to insure against the displacement of producer milk for the purpose of cost advantage. In the case of fully regulated handlers a compensatory payment on any unpriced other source milk allocated to Class I should be required. Such payment should be at the difference between the order Class II and Class I prices applicable at the location of the plant from which such other source milk was initially received from dairy farmers. As previously indicated the use value in its normal market would be its value for manufacturing uses. The Class II price

established by the order is a fair and economic measure of the value of milk for manufacturing uses in this area and hence, appropriately represents the actual value of such milk in its normal market.

Nonfluid milk products compete on a national market and may be received in the local market from a number of sources and under varied circumstances. It is not administratively feasible to trace such products to their plant of origin. Accordingly, when the other source milk on which compensatory payment is required was received in a form other than a fluid milk product the payment should be on the basis of the difference between the Class II price and the Class I price effective at the location of the pool plant where used.

Milk may be distributed in the marketing area from plants which have insufficient market area sales to qualify for pooling. In such event, to preserve the integrity of regulation, it is necessary to assure that the plant operator has no product cost advantage over regulated handlers because of his ability to use unpriced milk. This may be accomplished by permitting the handler to pay into the pool any amount by which the use value of his milk, computed as though he were a pool handler, exceeds his payments to dairy farmers, or in the alternative, to make a compensatory payment to the pool of the difference between the Class I price and the Class II price on the hundredweight of his market area sales which are in excess of his purchases of Federal order milk classified and priced as Class I.

There is only one handler distributing milk in the marketing area who would not be fully regulated under this order or who is not presently fully regulated under another Federal order. While this handler buys milk in Eastern New Mexico in competition with other handlers who would be fully regulated under the order, his methods of operation are such that his producer pay price would reflect a percentage of reserve milk at least equal to that of the local market. Hence, he could have no procurement advantage over regulated handlers if he should elect to pay the use value of his milk to his producers. Permitting the nonpool handler to choose which payment procedure he wishes to use will permit him flexibility in meeting the competitive situation in his local market without infringing on the integrity of regulation.

Distribution of proceeds to producers. The order should provide for the distribution of returns to producers through a marketwide equalization pool. Under this type of pooling all producers receive a uniform price which varies only to reflect the differences in butterfat content of milk delivered and the location of the plant of receipt. This pooling procedure will implement the orderly disposition of the market's reserve supply in manufacturing outlets. As has been previously indicated, manufacturing facilities in the market are limited and the bulk of the reserve supply of the market will necessarily be disposed of through distant manufacturing plants. Most of the producers are members of one or the other of the two proponent cooperative associations and it is likely that those associations will necessarily assume the responsibility of disposing of the market's excess supplies. The marketwide pool will facilitate the marketing of the market reserve by cooperatives by apportioning equitably among all producers the lower returns accruing from the disposition of such reserve supplies for manufacturing uses.

Producer-settlement fund. Payments to producers under the marketwide pool will require a producer-settlement fund for making adjustments in payments, as among handlers, to the end that the total sums paid by each handler shall equal the value of milk received by him at the prices specified by the order. Under this pooling arrangement handlers whose obligations, computed on the basis of the class prices, exceed the uniform price will pay the difference to the producer-settlement fund. Handlers whose obligations to producers at the uniform price exceed the classification value of their milk will receive the difference from the producer-settlement fund.

Provision is made whereby the market administrator, in making payment to any handler from the producer-settlement fund shall offset such payments by any amounts due such fund from such handlers. This is sound business practice and without the provision the market administrator might be required to make payment to a handler who owes money to the fund but who is not financially able to make full payment of all of his debts.

If at any time the balance in the producer-settlement fund is insufficient to cover payments due to all handlers, provision is made whereby payments to handlers shall be reduced uniformly. The handler in turn may then reduce his payments to producers by an equivalent amount. Under the procedure prescribed the market administrator would complete payments as soon as the necessary funds became available and handlers in turn would complete payment to producers not later than the regular date for payment of producers next following.

Base-excess plan. In order to encourage an even pattern of production throughout the year the order should provide for the payment to producers under a base and excess plan as an adjunct to the seasonal pricing pattern. The price paid for base milk delivered should be determined by dividing the residual value of the pool, after deducting the value of excess milk by the total hundredweight of base milk. The price for excess milk should be the lowest use price. Provisions should be made to assure that the base price shall not exceed the Class I price. In the event this result is indicated, the order provides that the amount of such excess shall be included in the computation of the excess price.

Under the plan herein recommended, and which was generally supported at the hearing, bases would reflect each individual producer's average daily deliveries during the months of September through December and would be effective for the subsequent months of March through June. Each producer would receive payment at the base price for all milk delivered during the March–June period which was not in excess of his established base. Milk delivered in such months in excess of his established base would be paid for at the excess price.

The computation of a daily base for each producer would be made by the market administrator. The order provides that producers shall be notified of their established bases on or before the 15th day of February each year. The daily base of each producer would be determined by dividing his total deliveries of milk during the base-forming months by the number of days of production but by not less than 112 days. Provision is made whereby producers delivering to a pool plant during the months of March through June, which plant was not a pool plant during the entire base forming months, would have their bases computed as though such plant had been a pool plant throughout such period.

Since much of the base-operating period necessarily will have lapsed prior to the effective date of the order, the specific provisions are drafted to delay the operation of the base plan until after June 1962.

Operation of the base-excess plan for paying producers requires certain rules in connection with the establishment and transfer of bases to provide reasonable administrative workability of the plan. A base computed for a producer on the basis of his deliveries to a nonpool plant during any part of the base-forming period should not be permitted to be transferred. In all other situations a base should be permitted to be transferred but only in its entirety and with appropriate notification to the market administrator. When a base is transferred to a producer already holding a base, a new base is computed for such producer, using the same procedure provided for computing his original basis.

Since the base-excess plan herein proposed is to be effective in determining producer payments in only four months of the year, and all producers must establish a new base each year, provisions in addition to those contained herein for the establishment and transfer of bases are necessary.

Payments to individual-producers and cooperative associations. The order should provide that each handler pay individual producers not later than the 1st day after the end of the month for milk received from such producer during the first 15 days of the month an amount per hundredweight not less than the Class II price for the preceding month. Final payment should be made on or before the 15th day after the end of the month. These dates are the dates on which payment is customarily made to producers in the area. However, producers will, in fact, be receiving payment for each delivery 15 days later than they are at present. This delay is necessary to provide a reasonable time for the filing of reports, computation and announcement of the uniform price and/or the base and excess prices and for preparing individual checks and payments. The

reporting, announcement and payment dates herein provided are synchronized to permit final payment on the 15th day after the end of the month.

The advance payment on or before the 1st day after the end of the month should be required only for those producers still delivering to the handler at the end of the month. This procedure together with the payment rate presented will assure producers a reasonable advance payment and at the same time fully protect the handler from possible overpayment.

The order should provide that a cooperative association of producers which is determined by the Secretary to be authorized to collect payments otherwise due its members, shall be paid by the handler the amounts due such producer-members on request. Such request to collect payments for its producer-members must be made in writing to both the handler and the market administrator prior to the 1st day of the month and must specify those producers for which membership and authority to collect payment is claimed. Such association should also submit a written promise to reimburse the handler against any actual monetary losses that he may incur as a result of any improper claim of membership on the part of the association.

Provision also should be made to require that a handler shall pay a cooperative association for all milk purchased from such association in its capacity as a handler pursuant to § 1120.17(c)(2) at not less than the use value of such milk computed at the specified order prices. A cooperative association may not sell milk to any handler at less than the specified order prices and this provision will implement the enforcement of this requirement.

Where payment is being made directly to the cooperative association such payments should be made on the 26th day of the month and the 13th day after the end of the month rather than on the 1st and 15th days after the end of the month. Earlier payment to a cooperative association is necessary to provide sufficient time whereby the cooperative association may in turn pay its members on the same days on which other producers are paid.

In the event a handler has received milk from producers or from a cooperative association as the handler on bulk tank milk which has an average butterfat content of more or less than 4.0 percent, the returns to such producers (or association) should be adjusted by a differential which reflects the weighted average value of butterfat in producer milk utilized in the respective classes. This follows the same principle as the payment of a uniform price to all producers.

In making payments to producers for milk received at plants located 100–110 miles from Lubbock and outside the State of Texas or beyond the northern boundaries of Parmer, Castro, Swisher, Briscoe, Hall and Childress Counties in the State of Texas the uniform price and the uniform base price should be reduced 10 cents plus 1.5 cents for each additional 10-mile distance or fraction thereof which such plant is located from Lubbock. Such a location differential will reflect the cost of hauling milk to market by an efficient means and hence will distribute returns to producers in accordance with the location value of their milk.

No location differential should be applicable in making payments for excess milk. Excess milk normally may be expected to be priced at approximately the Class II price which reflects the value of milk for manufacturing uses in the production area. Producers should not be expected to receive a lesser price for their milk than its value for manufacturing uses.

Administrative provisions. The order should provide the general administrative provisions which are common to all orders and which are necessary for proper and efficient administration of the order.

In addition to definitions discussed earlier in these findings, certain other definitions, common to all other orders issued pursuant to the Act, are included. Such definitions are included in the interests of brevity, to assure that each usage of the term denotes a definite meaning. These include the terms "Act", "Secretary", "Department", "Person" and "Cooperative association".

Provision should be made for the appointment of a market administrator by the Secretary and the order should define his powers and duties, prescribe the information to be reported by handlers each month, set forth the rules to be followed for making computations required by the order and provide for the liquidation of the order in the event of its suspension or termination.

The powers of the market administrator as set forth in the order are those provided in section 8c(7)(C) of the Act, as amended, and the language included is essentially that of the statute.

The duties of the market administrator as provided in the order are necessary to define his responsibilities and are similar to those found in other orders issued pursuant to the Act.

The order provides that handlers be required to make and keep adequate records of their operations, and to submit the reports necessary to establish the classification of producer milk, and payments due for such milk. Time limits must be established for the filing of such reports and making such payments. Reports of the amount and classification of milk received by each handler from producers who are members of cooperative associations should be made to such associations as request them. For the purposes of this report, the utilization of the milk of association members by each handler should be proportioned to the total utilization of producer milk by such handler.

Detailed and verified reports are used to determine which plants are qualified as pool plants and the classification and pricing of producer milk at such plants. Reports and records of handlers operating nonpool plants from which fluid milk products are distributed in the marketing area are used to compute the money payable to the producer-settlement fund on such unpriced milk.

Handlers should keep and make available to the market administrator complete records and accounts of their operations and such facilities as are necessary to determine the accuracy of the information reported to the market administrator. The market administrator should also have access to any other information upon which the classification of producer milk depends or which is related to payments to producers. Specifically, the market administrator should have the access necessary to check the accuracy of weight and tests of milk and milk products received and handled so that he may verify classification, pricing and payments required under the order.

It is necessary that handlers maintain records to prove the utilization of milk received from producers and the accuracy of payments made for such milk. Because the books of all handlers associated with the market cannot be completely audited immediately after the milk has been received at a plant, such records must be kept for a reasonable period of time.

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

Provision is made whereby a handler may in any month elect two accounting periods, in lieu of accounting on a monthly basis, provided that no elected period may be less than seven days. This provision was requested by a handler for the purpose of reducing his potential obligation under the order in circumstances where production and/or Class I sales vary significantly from one part of the month to another and imports of other source milk are received from other Federal order plants. Under such circumstances producer receipts over the month as a whole might be sufficient to cover total Class I sales. Without the opportunity for two accounting periods, necessary imports of federally regulated milk would be allocated to Class II and some producer receipts would take priority in Class I even though such receipts were not available when needed. Producers should not expect a Class I return on milk which is not available when needed. Permitting the handlers opportunity to split the normal accounting period under such circumstances is both appropriate and equitable.

Since splitting of an accounting period will double the workload of the market administrator it is necessary and appropriate that the handlers involved pay the cost of the additional work. It is provided therefore, that any handler electing two accounting periods in any

month should pay an administrative assessment of twice the rate otherwise applicable.

Expense of administration. Each pool handler should be required to pay to the market administrator as his share of the cost of administering the order a rate not to exceed 5 cents a hundredweight on milk received from producers (including his own farm production, if any), milk caused to be delivered to his pool plant by a cooperative association directly from the producer's farm (§ 1120.17(c)(2)), and other source milk in his pool plant(s) allocated to Class I.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that the cost of the administration be financed through an assessment on handlers. One of the duties of the market administrator is to verify receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by the above means.

To avoid double assessment, a cooperative association which is a handler should be exempt from paying the administrative assessment on milk which it receives from producers with farm milk tanks and subsequently transfers directly to pool plants of other handlers. A cooperative association may be the responsible handler on such farm tank milk to implement the efficient administration of the order. If provision is not made whereby the proprietary handler is required to pay the administrative assessment on such milk, the association might be reluctant to assume the role of the responsible handler. Furthermore, this procedure is necessary to preserve equity between member and nonmember producers. It would be inappropriate to require member producers to bear the administrative cost solely because their milk is delivered from farm tanks rather than in cans.

It is intended that each handler bear an equitable share of the cost of administering the order. Accordingly, the operator of the pool plant where such milk is first received bears the administrative expense.

Plants not fully subject to the classification and pricing provisions of a Federal order may distribute limited quantities of Class I milk in the marketing area. As previously indicated the operator of such plant may choose to make a compensatory payment on his unpriced market area sales or to pay to the pool the difference between the use value of his milk computed as though he were a pool handler and the value actually paid to his dairy farmers. Where the latter option is elected the market administrator must perform essentially the identical audit that he would perform if the plant were a pool plant. In such case the handler's obligation to the administrative fund should be computed on the same basis as though he were a pool handler. When the handler elects to make a compensatory payment on his market area sales the audit procedure is likely to be less extensive and hence less costly. Hence, a payment of the rate of assessment on only the amount of his marketing area sales will more appropriately reflect such handler's fair share of the cost of administration; to enable the Secretary to reduce the rate of assessment below the five-cent per hundredweight maximum without the necessity of holding an amendment hearing should be included. Such a reduction should take place when experience in the market shows that a rate less than 5 cents a hundredweight will produce sufficient revenue to administer the order properly.

Marketing services. Provision should be included in the order for furnishing marketing services to producers. Such services include the verification of weights and tests of individual producers and the preparation and dissemination of information for the market. The market administrator should perform or supervise the performance of such services, the cost of which should be borne by the producers receiving such services. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own services with respect to such producers.

A marketing service program is needed in connection with the order. Orderly marketing will be promoted by assuring each producer that his milk has been accurately weighed and tested. To give full assurance of this, it is necessary that the test and weights of individual-producer deliveries as reported by the handler be verified for accuracy. Orderly marketing will be further promoted if producers are provided complete, detailed and current market information.

To enable the market administrator to furnish these services, provision should be made for a maximum deduction of 6 cents a hundredweight with respect to milk received during the month from producers for whom he renders marketing services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

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 to reach such conclusions are denied for the reasons previously stated in this decision.

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

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

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

Recommended marketing agreement and order. The following order regulating the handling of milk in the Lubbock-Plainview, Texas, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order.

DEFINITIONS

§ 1120.1 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.).

§ 1120.2 Secretary.

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

§ 1120.3 Department.

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

§ 1120.4 Person.

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

§ 1120.5 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

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

§ 1120.6 Lubbock-Plainview, Texas, marketing area.

"Lubbock-Plainview, Texas, marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties of:

Bailey.	Hale.
Castro.	Hockley.
Cochran.	Lamb.
Cottle.	Lubbock.
Crosby.	Lynn.
Dickens.	Motley.
Floyd.	Terry.
Gaines.	Yoakum.
Garza.	

all within the State of Texas, including all territory within such boundaries occupied by Government (municipal, State or Federal) reservations, installations, institutions or other similar establishments.

§ 1120.7 Fluid milk product.

"Fluid milk products" means all the skim milk (including reconstituted skim milk) and butterfat in the form of milk, skim milk, buttermilk, concentrated milk, fortified milk or skim milk, flavored milk drinks, cream except aerated cream products, cultured sour cream and sour cream products labeled Grade A, and any mixture of cream and milk in fluid form except ice cream and other frozen dessert mixes, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers.

§ 1120.8 Route.

"Route" means any delivery of a fluid milk product from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to a plant.

§ 1120.9 Plant.

"Plant" means the land, buildings together with their surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products are received and/or processed or packaged: *Provided,* That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distribution depot for fluid milk products in transit on routes shall not be a plant under this definition.

§ 1120.10 Distributing plant.

"Distributing plant" means a plant from which any Grade A fluid milk product is disposed of during the month on a route(s) in the marketing area.

§ 1120.11 Supply plant.

"Supply plant" means a plant from which milk, skim milk or cream acceptable for distribution under a Grade A label is moved during the month to a distributing plant.

§ 1120.12 Pool plant.

"Pool plant" means:

(a) A distributing plant from which a volume of Class I milk not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from a cooperative association(s) in its capacity as a handler pursuant to § 1120.17(c)(2) is disposed of during the month on routes unless the volume so disposed of in the marketing area is less than 15 percent of such receipts or less than 1,500 pounds on a daily average: *Provided,* That if a portion of such plant, physically apart from the Grade A portion of such a plant, is operated separately and is not approved by any health authority for the receiving, transferring, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered to be a part of such pool plant pursuant to this paragraph;

(b) A supply plant from which a volume of fluid milk products not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from a cooperative association(s) in its capacity as a handler pursuant to § 1120.17(c)(2) is transferred during the month to a distributing plant from which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk from dairy farmers, cooperative associations, and from other plants is disposed of on routes during the month and the volume so disposed of in the marketing area is at least 15 percent of such receipts or a daily average of 1500 pounds, whichever is less: *Provided,* That if a portion of such supply plant, physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, transferring, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered to be part of such pool plant pursuant to this paragraph: *And provided further,* That any plant which was a pool plant pursuant to this paragraph in each of the months of September through November shall be a pool plant for the following months of March through June, unless written application is filed with the market administrator on or before the first day of any such months for designation as a nonpool plant for the remaining months through June.

§ 1120.13 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant.

§ 1120.14 Producer.

"Producer" means any person except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is (a) received at a pool plant either directly or by a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), or (b) diverted from a pool plant to a nonpool plant (other than the plant of a producer-handler) for the account of either the operator of the pool plant or a cooperative association (1) any day during the months of March through June, and (2) on not more than 15 days during any month of July through February: *Provided,* That milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted.

§ 1120.15 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in: (a) Milk received at a pool plant directly from producers; (b) milk from producers diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 1120.14(b); or (c) milk received by a cooperative association pursuant to § 1120.17(c)(2): *Provided,* That such milk shall be deemed to have been received by such cooperative association at a pool plant at the location of the pool plant to which it was delivered.

§ 1120.16 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products except (1) Fluid milk products received from a pool plant, (2) producer milk, (3) receipts from a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), and (4) inventory of fluid milk products at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are repackaged, reprocessed or converted to another product in the plant during the month or for which other utilization is not established pursuant to § 1120.32.

§ 1120.17 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a nonpool distributing or supply plant(s); and

(c) A cooperative association with respect to the milk of any producer which it causes: (1) To be diverted for its account to a nonpool plant; or (2) to be delivered directly from the farm to the pool plant of another handler in a tank truck owned and operated by, under contract to, or under the control of such association, unless the association notifies the market administrator and the operator of the pool plant in writing prior to the time of delivery that the transferee handler is to be the responsible handler on such milk.

§ 1120.18 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and whose only source of supply for Class I milk is his own farm production and transfers from pool plants: *Provided,* That such person furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprises of and at the personal risks of such person.

§ 1120.19 Base milk.

"Base milk" means milk received at a pool plant (or diverted pursuant to § 1120.14(b)) from a producer during any of the months of March through June which is not in excess of such producer's daily base computed pursuant to § 1120.65 multiplied by the number of days in such month.

§ 1120.20 Excess milk.

"Excess milk" means milk received at a pool plant (or diverted pursuant to § 1120.14(b)) from a producer during any of the months of March through

June which is in excess of base milk received from such producer during such month, and milk received (or diverted pursuant to § 1120.14(b)) during such month from a producer for whom no base can be computed pursuant to § 1120.65.

§ 1120.21 Chicago butter price.

"Chicago butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month.

MARKET ADMINISTRATOR

§ 1120.25 Designation.

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

§ 1120.26 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 such rules and regulations as are necessary to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1120.27 Duties.

The market administrator shall perform all the 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 the Secretary may prescribe, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such 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 from the funds received pursuant to § 1120.86, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1120.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

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

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means, as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(i) Prepare and disseminate to producers, handlers and the public such statistics and information as do not reveal confidential information and which he deems necessary to the proper functioning of this part;

(j) On or before the date specified herein, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

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

(2) The tenth day of each month, the uniform price(s) and the producer butterfat differential, both (all) for the preceding month;

(k) On or before the tenth day after the end of each month report to each cooperative association, upon request by such association, the percentage of producer milk caused to be delivered by such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

(l) On or before the 11th day after the end of each month, mail to each handler at his last known address, a statement showing:

(i) The amount and value of his producer milk in each class and the total thereof; and

(ii) The amount to be paid by such handler pursuant to §§ 1120.82, 1120.85, and 1120.86 and the amount due such handler pursuant to § 1120.83.

REPORTS RECORDS AND FACILITIES

§ 1120.30 Reports of receipts and utilization.

(a) On or before the eighth day after the end of each month each cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2) and each handler with respect to each of his pool plants shall report to the market administrator for such month and for each accounting period in such month elected pursuant to § 1120.34, in the detail and on forms prescribed by the market administrator, as follows:

(1) The quantities of skim milk and butterfat contained in:

(i) Receipts of producer milk (including from such handler's own production), and after March 1, 1963, for the months of March through June, the aggregate quantities of base and of excess milk;

(ii) Receipts of fluid milk products from other pool plants and from cooperative associations;

(iii) Receipts of other source milk; and

(iv) Inventories of fluid milk products on hand at the beginning and at the end of such month;

(2) The utilization of all skim milk and butterfat required to be reported by this part;

(b) Each handler operating a nonpool distributing plant unless otherwise directed by the market administrator, shall report for such plant at the same time and in the same manner prescribed for a pool handler in paragraph (a) of this section.

(c) Except as provided in paragraph (b) of this section, each handler operating a nonpool plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1120.31 Other reports.

(a) Each cooperative association in its capacity as a handler pursuant to § 1120.17(c) (1) and (2), and each handler with respect to each of his pool plants shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 20th day after the end of the month his producer payroll for such month, which shall show for each producer:

(i) His name and address;

(ii) The total pounds of milk received from such producer, including for the months of March through June his total pounds of base and excess milk;

(iii) The average butterfat content of such milk;

(iv) The number of days of production received from such producer if less than the entire month; and

(v) The net amount of the handler's payment together with the price paid and the amount and nature of any deductions;

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

(3) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted; and

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

§ 1120.32 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations

together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

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

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

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

(d) Payments to producers and cooperative associations.

§ 1120.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further 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.

§ 1120.34 Accounting periods.

A handler may account for receipts, utilization and classification of milk at any of his pool plants for two periods within a month, each period not to be less than seven days, in the same manner as for a month if he provides to the market administrator in writing not later than 24 hours prior to the end of an accounting period notification of his intention to use two accounting periods.

CLASSIFICATION

§ 1120.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1120.30(a) shall be classified by the market administrator pursuant to the provisions of §§ 1120.41 through 1120.46.

§ 1120.41 Classes of utilization.

Subject to the conditions set forth in §§ 1120.42 through 1120.45, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat: (1) Disposed of in the form of fluid milk products, except as provided in paragraph (b) (2), (3), and (4) of this section: *Provided,* That when any fluid milk product is fortified by the addition of nonfat milk solids, the amount of skim milk to be classified as Class I shall be only that amount equal to the weight of skim milk in an equal volume of unfortified product of the same nature and butterfat content; and (2) not specifically accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than a fluid milk product; (2) disposed of for animal feed; (3) contained in fluid milk products dumped: *Provided,* That the handler shall give the market administrator such advance notice of intent to dump as the market administrator may require; (4) contained in fluid milk products disposed of to commercial bakeries, soup factories and similar establishments other than a plant pursuant to § 1120.9; (5) contained in inventory of fluid milk products on hand at the end of the month, and (6) contained in actual shrinkage of skim milk and butterfat, respectively, not to exceed the amounts calculated for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2) as follows: (i) 2 percent of receipts directly from producers (excluding milk diverted pursuant to § 1120.14(b)); plus (ii) 1.5 percent of bulk receipts of milk from other plants except that if the handler is purchasing milk from a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2) and files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of the butterfat tests of farm drawn samples and weights determined at the farm, the applicable percentage on such milk shall be 2.0 percent; less (iii) 1.5 percent of bulk transfers of milk to other plants (in the case of a cooperative association selling milk to a handler on the basis of farm weights and tests, as provided in subdivision (ii) of this subparagraph the applicable percentage shall be 2.0); plus (iv) shrinkage in other source milk determined pursuant to § 1120.42; and (7) skim milk contained in any fortified fluid milk product in excess of the pounds of skim milk in such product classified as Class I pursuant to the proviso of paragraph (a)(1) of this section.

§ 1120.42 Shrinkage on other source milk.

The market administrator shall determine shrinkage in other source milk for each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for such plant; and

(b) Assign a pro rata share of such shrinkage to skim milk and butterfat, respectively, in other source milk on the basis of the percentage that such skim milk and butterfat represents the total receipts of skim milk and butterfat, respectively, at such plant.

§ 1120.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that classification should be as Class II milk.

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

§ 1120.44 Transfers.

Skim milk and butterfat disposed of during the month by transfer or diversion shall be classified:

(a) As Class I milk if transferred in the form of any fluid milk product to a pool plant unless utilization as Class II milk is claimed by both handlers (or by the handler if such transfer is between two pool plants of the same handler) in their reports submitted pursuant to § 1120.30(a) for the month: *Provided,* That if either or both plants have receipts of other source milk, the skim milk and butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk at both plants except Class I utilization assigned to other source milk pursuant to § 1120.46(a) and the corresponding step of (b);

(b) As Class I milk if transferred from a pool plant to the plant of a producer-handler in the form of any fluid milk product;

(c) Except as provided in paragraph (f) of this section in the class in which assigned under the other order if transferred or diverted in bulk in the form of a fluid milk product to a nonpool plant that is a pool plant (a fully regulated plant) under another order issued pursuant to the Act: *Provided,* That if such nonpool plant received bulk fluid milk products from two or more nonpool plants regulated by an order(s), other than that under which it is regulated, the amount classified in each class shall be a pro rata share of such receipts allocated to that class;

(d) Except as provided in paragraphs (b), (c), (e), and (f) of this section as Class I milk if transferred or diverted in bulk to a nonpool distributing plant in the form of any fluid milk product, to the extent of such plant's disposition of skim milk and butterfat, respectively, as Class I milk in the marketing area, if the operator of such nonpool plant elects option (a) in accounting for his obligation to the pool pursuant to § 1120.62;

(e) As Class II milk if transferred to a nonpool plant in the form of cream if the handler establishes that such cream was transferred without Grade A certification, that each container was labeled or tagged to indicate that the contents were ungraded products suitable for manufacturing use only, and that the shipment was so invoiced;

(f) As Class I milk if diverted to a nonpool plant located in excess of 300 miles from the City Hall at Lubbock, Texas, by the shortest hard surfaced highway distance as determined by the market administrator;

(g) Except as provided in paragraphs (b) through (f) of this section as Class I milk if transferred or diverted to a nonpool plant in bulk in the form of any fluid milk product; unless

(1) The transferring or diverting handler claims classification in Class II in

his report submitted for the month pursuant to § 1120.30(a);

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

(3) An amount of skim milk and butterfat, respectively, of not less than that so claimed by the handler was utilized in Class II and the classification claimed by the handler results in an amount of skim milk and butterfat in Class I milk claimed by all handlers transferring or diverting milk to such nonpool plant of not less than the amount of assignable Class I milk remaining after the following computation:

(i) From the total skim milk and butterfat, respectively, in fluid milk products disposed of from such nonpool plant and classified as Class I milk (pursuant to the classification provisions of this order applied to such nonpool plant) subtract the skim milk and butterfat received at such plant directly from dairy farmers who are approved by a duly constituted health authority to supply Grade A milk and who the market administrator determines constitute the regular source of supply for such nonpool plant; and

(ii) From the remaining amount of Class I milk, subtract the skim milk and butterfat, respectively, received from plants at which such milk was classified and priced as Class I milk pursuant to another order issued pursuant to the Act: *Provided,* That the amount subtracted pursuant to this subdivision shall be limited to such plant's pro rata share of such remainder based on the total receipts of skim milk and butterfat, respectively, at such nonpool plants which are fully subject to the pricing provisions of an order issued pursuant to the Act.

§ 1120.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors the reports submitted by each handler pursuant to this part and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant of such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1120.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1120.45, the market administrator shall determine the classification of producer milk received at each pool plant as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 1120.41(b)(6)(i) through (iii);

(2) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk received in other source milk in a form other than as a fluid milk product;

(3) 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 received in the form of fluid milk products from plants which are not fully subject to the classification and pricing provisions of another order issued pursuant to the Act;

(4) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in packaged fluid milk products received from plants fully subject to the classification and pricing provisions of another order issued pursuant to the Act and classified and priced as Class I under such other order;

(5) Subtract from the remaining pounds of skim milk in Class II milk an amount equal to either 5 percent of producer receipts and receipts from a cooperative association(s) in its capacity as a handler pursuant to § 1120.17(c)(2), or the amount of skim milk remaining in Class II, whichever is less;

(6) 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 received in the form of fluid milk products from plants fully subject to the classification and pricing provisions of another order issued pursuant to the Act and not assigned pursuant to subparagraph (4) of this paragraph;

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

(8) Subtract from the pounds of skim milk remaining in Class II milk, in excess of the pounds of skim milk contained in inventory of fluid milk products on hand at the end of the month, the pounds of skim milk in inventory of such products on hand at the beginning of the month: *Provided,* That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, the difference shall be subtracted from the remaining pounds of skim milk in Class I milk;

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

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other pool plants and from a cooperative association(s) in its capacity as a handler pursuant to § 1120.17(c)(2) in the form of any fluid milk product according to the classification thereof as determined pursuant to § 1120.44(a);

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

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

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

MINIMUM PRICES

§ 1120.50 Class prices.

Subject to the provisions of §§ 1120.51 and 1120.52, class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The price for Class I milk shall be the price for Class I milk established under part 1126 of this chapter regulating the handling of milk in the North Texas marketing area, plus 10 cents.

(b) *Class II price.* The price for Class II milk for the months of July through February shall be the sum of the plus values computed pursuant to subparagraphs (1) and (2) of this paragraph, and for the months of March through June shall be such sum minus 13 cents, rounded in each case to the nearest full cent:

(1) Subtract 3 cents from the Chicago butter price and multiply by 4.8; and

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pounds of nonfat dry milk, 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 preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.16.

§ 1120.51 Butterfat differentials to handlers.

For milk containing more or less than 4.0 percent butterfat the class prices for the month calculated pursuant to § 1120.50 shall be increased or decreased, respectively, for each one-tenth percent variation in butterfat content at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.125.

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.115.

§ 1120.52 Location differentials to handlers.

For producer milk which is received at a pool plant located either outside of the State of Texas, or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the City Hall, Lubbock, Texas, by the shortest hard surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1120.50(a) shall be reduced at the rate set forth in the following table according to the location of the

pool plant where such milk is received from producers.

	Rate per hundredweight (cents)
Distance from Lubbock City Hall 100 but less than 110 miles	10
For each additional 10 miles or fraction thereof an additional	1.5

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee plant after making the calculations prescribed in § 1120.46(a)(9) and the corresponding step in § 1120.46(b) for such plant, such assignment to the transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1120.53 Rate of payment on unpriced milk.

The rate of compensatory payment per hundredweight during any month shall be the difference between the Class I price adjusted by the Class I butterfat differential and the Class I location differential applicable at the location of the plant at which the milk was received from farmers, and the Class II price adjusted by the Class II butterfat differential.

§ 1120.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1120.60 Producer-handlers.

Sections 1120.40 through 1120.46, 1120.50 through 1120.53, 1120.65 through 1120.67, 1120.70 through 1120.75, and 1120.80 through 1120.88 shall not apply to a producer-handler.

§ 1120.61 Plants subject to other Federal orders.

The provisions of this part shall not apply with respect to the operation of any plant specified in paragraphs (a) or (b) of this section except that the operator thereof, with respect to total receipts of skim milk and butterfat and the utilization thereof, shall 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) A plant meeting the requirements of § 1120.12(a) which also meets the pooling requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk is disposed of during the month on routes in such other Federal order marketing area than was disposed of on routes in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless notwithstanding the provisions of this paragraph it is regulated under such other order;

(b) A plant meeting the requirements of § 1120.12(a) which also meets the pooling requirements of another Federal order on the basis of route distribution in such other marketing area and from which, the Secretary determines, a greater quantity of Class I milk is disposed of during the month on routes in this marketing area than is disposed of in such other marketing area but which plant is fully regulated under such other Federal order.

§ 1120.62 Handlers operating nonpool distributing plants.

Each handler, other than a producer-handler or a handler with respect to the operations of a plant exempted pursuant to § 1120.61 (a) or (b), who during the month operates a nonpool distributing plant, in lieu of payments required pursuant to § 1120.80 through § 1120.85 shall pay to the market administrator the amounts computed pursuant to paragraph (b) of this section unless the handler elects at the time reports are due pursuant to § 1120.30 to pay the amounts computed pursuant to paragraph (a) of this section.

(a) On or before the 13th day after the end of the month:

(1) For the producer-settlement fund, an amount determined by multiplying the total hundredweight of skim milk and butterfat disposed of as Class I milk on routes in the marketing area from such plant during the month, less the hundredweight of skim milk and butterfat, respectively, transferred or diverted to such plant which is classified and priced as Class I pursuant to an order issued pursuant to the Act, by the rate determined pursuant to § 1120.53: *Provided,* That the same priced milk shall not be used to offset Class I sales in both this marketing area and in the marketing area of any other order(s) issued pursuant to the Act; and

(2) As his pro rata share of the expense of administration, the rate specified in § 1120.86, multiplied by the total hundredweight of Class I milk disposed of on routes in the marketing area; or

(b) On or before the 20th day after the end of the month:

(1) For the producer-settlement fund, any plus amount remaining after deducting from the obligation that would have been computed pursuant to § 1120.70 for such nonpool plant and any supply plant(s) (meeting the requirements equivalent to § 1120.12(b)) which serves as a source of milk for such nonpool plant, if such plants were pool plants;

(i) The gross payments made on or before the 20th day after the end of the month for milk received at such plant(s) during the month from Grade A dairy farmers; and

(ii) Any obligations incurred in accordance with provisions similar to those contained in this subparagraph or paragraph (a)(1) of this section applicable to such plant(s) as a partially regulated plant(s) under another order issued pursuant to the Act; and

(2) As his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 1120.86 had such plant(s) been a pool plant(s): *Provided,* That such amount shall be reduced by any amounts paid as an administrative expense assessment determined on the basis of the Class I milk disposed of on routes in other marketing areas, pursuant to the terms of other orders issued pursuant to the Act.

§ 1120.63 State institutions.

A State owned and operated institution or establishment which processes or packages milk distributed solely on its premises or those of other State institutions or establishments shall be exempt from all provisions of this part. Milk received from such institutions at a pool plant shall be other source milk and fluid milk products disposed of by a handler to such institutions shall be classified on the same basis as though disposed of to a producer-handler.

DETERMINATION OF BASE

§ 1120.65 Computation of daily base for each producer.

Subject to the rules set forth in § 1120.66, the average daily base for each producer shall be an amount calculated by dividing the total pounds of milk produced by and received from such producer at all pool plants during the preceding months of September through December by the number of days from the first day of delivery of such producer through the last day of December, inclusive, but by not less than 112; *Provided,* That in the case of any producer delivering milk to a pool plant which was a nonpool plant during any part of the September–December period, such plant shall be considered to have been a pool plant during such period for the purposes of computing the base of such producer.

§ 1120.66 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to receipts of milk from a producer for whose account such milk was received during the base forming period;

(b) A base which is assigned pursuant to the proviso of § 1120.65 shall be nontransferable; and

(c) Except as provided in paragraph (b) of this section an entire base shall be transferred from a person holding such base to any other person, effective as of the first day of any month following receipt by the market administrator of an application for such transfer. Such application shall be on a form approved by the market administrator and shall be signed by the baseholder or his heirs and by the person to whom such base is to be transferred: *Provided,* That if a base is held jointly, the entire base shall be transferrable only upon receipt of such application signed by all joint holders or their heirs: *And provided further,* That if one or more bases is transferred to a producer already holding a base which was either earned by such

producer, or transferred to him, a new base shall be computed by adding together the total producer milk received during the base-forming period from all persons in whose name such bases were earned and dividing the total by the number of days in the base-forming period from the earliest day producer milk was received from any such persons through the last day of such period, inclusive, but by not less than 112.

§ 1120.67 Announcement of established bases.

(a) On or before February 15 of each year the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base computed for such producer pursuant to § 1120.65.

DETERMINATION OF PRICES TO PRODUCERS

§ 1120.70 Computation of the obligations of each pool handler.

For each month the market administrator shall compute the obligation of each pool handler by making the computations provided in paragraphs (a) through (f) of this section for each of his pool plants, and adding together the resulting totals:

(a) Multiply the pounds of producer milk in each class computed pursuant to §§ 1120.40 through 1120.46 by the applicable class price and total the resulting amounts;

(b) Add an amount computed by multiplying the skim milk and butterfat subtracted from Class I pursuant to § 1120.46(a)(2) and the corresponding step of § 1120.46(b) by the rate determined pursuant to § 1120.53 for the location of the pool plant;

(c) Add an amount computed by multiplying the skim milk and butterfat subtracted from Class I pursuant to § 1120.46(a)(3) and the corresponding step of § 1120.46(b) by the rate determined pursuant to § 1120.53 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products; and

(d) Add an amount obtained by multiplying the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the lesser of:

(1) The skim milk and butterfat subtracted from Class I pursuant to § 1120.46(a)(8) and the corresponding step of § 1120.46(b); or

(2) The skim milk and butterfat in producer milk classified as Class II milk (except shrinkage) in the preceding month;

(e) Add an amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent amount of skim milk and butterfat, respectively, in the form of fluid milk products was received in the preceding month and classified as Class II by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1120.46(a)(8) and the corresponding step in § 1120.46(b) which is in excess of the sum of:

(1) The skim milk and butterfat for which adjustment was made pursuant to paragraph (d) of this section; and

(2) The skim milk and butterfat subtracted from Class II pursuant to § 1120.46(a)(6) and the corresponding step in § 1120.46(b) for the previous month and which was classified and priced as Class I under another Federal order;

(f) Add the amount computed by multiplying the skim milk and butterfat subtracted pursuant to § 1120.46(a)(11) and the corresponding step of § 1120.46(b) by the applicable class prices.

§ 1120.71 Computation of aggregate value used to determine uniform price(s).

For each month the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight of producer milk of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 1120.70 for all pool handlers who made the reports prescribed in § 1120.30(a) for such month, except those in default of payments required pursuant to §§ 1120.80 and 1120.82 for the preceding month;

(b) Subtract, if the weighted average butterfat content of producer milk in paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the producer butterfat differential computed pursuant to § 1120.74 and multiplying the resulting figures by the total hundredweight of such milk;

(c) Add an amount equal to the sum of deduction to be made from producer payments for location differentials pursuant to § 1120.75; and

(d) Add an amount equal to not less than one-half the unobligated balance on hand in the producer-settlement fund.

§ 1120.72 Computation of uniform price.

For each of the months of July through February, and the months from the effective date of this part through June 1962, the market administrator shall compute a uniform price for producer milk of 4.0 percent butterfat, as follows:

(a) Divide the aggregate value computed pursuant to § 1120.71 by the total hundredweight of producer milk included in such computations; and

(b) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for producer milk.

§ 1120.73 Computation of uniform prices for base and excess milk.

For each of the months of March through June, beginning with March 1963, the market administrator shall compute the uniform price for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) *Excess milk price.* (1) Assign the total hundredweight of excess milk received by all handlers whose receipts are included in the computation pursuant to § 1120.71 to producer milk in each class in series beginning with Class II;

(2) Multiply by the pounds of excess milk assigned to each class pursuant to subparagraph (1) of this paragraph by the applicable class price and add the resulting totals;

(3) Add the amount of any adjustment applicable pursuant to the proviso of paragraph (b)(2) of this section; and

(4) Divide the resulting total by the hundredweight of excess milk and subtract not less than 4 cents nor more than 5 cents. The result shall be the "uniform price for excess milk."

(b) *Base milk price.* (1) From the aggregate value determined pursuant to § 1120.71 subtract an amount determined by multiplying the hundredweight of excess milk determined pursuant to paragraph (a) of this section by the uniform price for excess milk;

(2) Divide the result by the total hundredweight of base milk received by all handlers whose receipts are included in the computation pursuant to § 1120.71: *Provided,* That if the resulting price is greater than the Class I price, the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base and excess milk on the basis of the respective volumes of base and excess milk used in the computation of the base and excess prices; and

(3) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to subparagraphs (2) of this paragraph. The result shall be the "uniform price for base milk."

§ 1120.74 Butterfat differential to producers.

The applicable uniform price or prices to be paid each producer pursuant to § 1120.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the total pounds of butterfat in producer milk allocated to Class I milk and to Class II milk pursuant to § 1120.46(b) by the Class I and Class II butterfat differentials, respectively, computed pursuant to § 1120.51, dividing the sum of such values by the total pounds of such butterfat and rounding the resultant figure to the nearest one-tenth of a cent.

§ 1120.75 Location differentials to producers.

The uniform price determined pursuant to § 1120.72 and the uniform price for base milk determined pursuant to § 1120.73 to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall and Childress and 100 miles or more from the City Hall of Lubbock, Texas, by the shortest hard surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained

in § 1120.52 according to the location of the pool plant at which such milk was received from producers.

PAYMENTS

§ 1120.80 Time and method of payment for producer milk.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month, to each producer from whom milk is currently being received, for milk received during the first 15 days of the month, at not less than the Class II price for the preceding month;

(b) On or before the 15th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price(s) per hundredweight pursuant to §§ 1120.72 and 1120.73 subject to the butterfat differential pursuant to § 1120.74; and less

(1) Payments made pursuant to paragraph (a) of this section;

(2) Location differential deductions pursuant to § 1120.75;

(3) Marketing service deductions pursuant to § 1120.85; and

(4) Proper deductions authorized by such producer:

Provided, That if by the date specified, such handler has not received full payment for such month pursuant to § 1120.83, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator, and payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(c) Each handler shall pay to a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk on or before the 26th day of the month and the 13th day of the month following, respectively, the amounts otherwise payable pursuant to paragraphs (a) and (b) of this section, for milk received from producers whom such association certifies are its members: *Provided,* That such cooperative association submits to the handler and to the market administrator before the first day of the month for which it is to receive such payment, a written request for such payment for milk received from such certified members who are producers together with a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of such association. Such request shall be honored with respect to milk received until the first day of the month in which it receives from such association, in writing, notice either of termination of membership, or of withdrawal of the original request. Exceptions, if any, to the accuracy of certification of membership by the cooperative association, by a producer who is claimed to be a member or by a handler shall be made in writing to the market administrator and shall be subject to his determination;

(d) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association in its capacity as a handler pursuant to § 1120.17(c)(2) as follows:

(1) On or before the 26th day of each month for milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable class prices less the amounts paid pursuant to subparagraph (1) of this paragraph; and

(e) In making payments to producers pursuant to paragraph (b) of this section and to a cooperative association pursuant to paragraph (c) of this section each handler shall furnish each producer from whom he has received milk, or each such cooperative association with respect to each producer member, whichever is applicable, with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The applicable month;

(2) The identity of the handler, the Federal milk order under which the producer's milk was priced, and the producer;

(3) The daily and total pounds and the average butterfat content of milk received from such producer, including for the months of March through June, the pounds of base and excess milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this part;

(5) The rate which is used in making the payment;

(6) The amount or the rate per hundredweight, and the nature of each deduction made by the handler; and

(7) The net amount of payment to such producer or cooperative association.

§ 1120.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" in which he shall deposit all payments made by handlers pursuant to §§ 1120.62, 1120.82 and 1120.84, subject to the provisions of § 1120.87, and out of which he shall make all payments pursuant to §§ 1120.83 and 1120.84: *Provided,* That payments due to any handler shall be offset by any payment due from such handler.

§ 1120.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his milk as computed pursuant to § 1120.70 for such month, is greater than the amount owed by him pursuant to § 1120.80 for such milk at the appropriate uniform price or prices adjusted by the producer butterfat and location differentials.

§ 1120.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler any amount by which the value of his milk computed pursuant to § 1120.70 for such month is less than the amount owed by him pursuant to § 1120.80 for such milk at the appropriate uniform price or prices adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments due pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1120.84 Adjustment of errors in payment.

Whenever audit by the market administrator of any handler's reports, books, records, or account discloses errors resulting in moneys 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 promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

§ 1120.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1120.80(b) shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator no later than the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received by handlers from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by or responsible to him.

(b) In the case of a producer for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in said paragraph (a), such deductions from payments to be made directly to such producers pursuant to § 1120.80(b) as are authorized by such producers and on or before the 15th day after the end of each month pay such deductions to the cooperative association rendering such services.

§ 1120.86 Expense of administration.

As his pro rata share of the expense of the administration of the order, each handler, except a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), shall pay to the market administrator on or before the 15th day after the end of each month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, as follows:

(a) Each pool handler for skim milk and butterfat contained in producer

milk, milk received from a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), and in other source milk allocated to Class I pursuant § 1120.46(a) (2) and (3) and the corresponding steps in § 1120.46(b): *Provided,* That if such handler elects pursuant to § 1120.34 at any of his pool plants to use two accounting periods in any month the applicable rate of assessment shall be twice the rate set forth above; and

(b) Each handler operating a nonpool distributing plant pursuant to § 1120.62 to the extent provided in such § 1120.62.

§ 1120.87 Adjustment of overdue accounts.

There shall be added to any balance due to the market administrator pursuant to §§ 1120.62, 1120.82, 1120.84, 1120.85, and 1120.86 an amount equal to one-half of one percent of such balance for each month or portion thereof that payment of such balance is overdue.

§ 1120.88 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part, except as provided in paragraphs (b) and (c) of this section, shall terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 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 a cooperative association, the name of such producer(s) or cooperative association, 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 willful concealment of a fact material to the obligation on the part of the handler against whom the obligation is sought to be imposed.

(b) 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 last day of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the last day of the 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.

MISCELLANEOUS PROVISIONS

§ 1120.90 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1120.91.

§ 1120.91 Suspension or termination.

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

§ 1120.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1120.93 Liquidation.

Upon the suspension or termination of any or all provisions of this part, the market administrator or such person as the Secretary may designate, if so directed by the Secretary, shall liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part over and above the amount 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, respectively, in an equitable manner.

§ 1120.94 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.

§ 1120.95 Separability of provisions.

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

Signed at Washington, D.C., on March 13, 1962.

CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 62-2591; Filed, Mar. 15, 1962; 8:49 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 50-202]

ENGINES AND TURBINES INDUSTRY

Hearing to Determine Prevailing Minimum Wages

Pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), notice is hereby given that a hearing to determine the prevailing minimum wages in the Engines and Turbines Industry under section 1 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35) will be held on April 17, 1962, at 10 o'clock, a.m. in Room 2325, United States Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The engines and turbines industry is defined tentatively to include the manufacture of steam engines; steam turbines; hydraulic turbines; gas turbines (except aircraft); complete steam, gas, and hydraulic turbine generator sets; internal combustion engines (except aircraft and nondiesel automotive) such as diesel and semidiesel engines, including marine, locomotive, military tank engines; jet propulsion engines (except aircraft); outboard motors and propelling units; and parts, attachments and accessories specifically designed for the foregoing products such as, but not limited to, governors for steam and gas turbines, turbine blades, assembled diaphrams, turning gear drives, marine propulsion gears, head covers, bottom rings, discharge rings, pit liners, pistons, vibration dampers, cam follower rollers, crankshafts, piston pins and gear covers.

Expressly excluded is the manufacture of: Prime mover generator sets (except complete steam, gas or hydraulic turbine generator sets); all types of generators; aircraft engines; rocket engines; automotive engines (except diesel); locomotives; and parts commonly recognized as products of industries other than the engines and turbines industry such as, but not limited to, temperature relays, packings, pulsation dampeners, roller and ball bearings, compressors, piping and tubing, oil pumps, couplings, rubber sealing rings, clutches, governors for diesel engines, gaskets, thrust bearings, torque converters, silencers, valve seat inserts and nonmetallic engine mountings.

Interested persons may appear at the hearing to submit evidence relative to

the following subjects and issues: (1) Any amendments which should be made in the tentative definition of the industry contained in this notice, (2) whether separate prevailing minimum wage determinations should be made for: (i) The manufacture of steam engines; steam turbines; hydraulic turbines, gas turbines (except aircraft); complete steam, gas, and hydraulic turbine generator sets; and parts, attachments, and accessories specifically designed for these enumerated products; and for (ii) the manufacture of internal combustion engines (except aircraft and nondiesel automotive) such as diesel and semidiesel engines, including marine, locomotive, and military tank engines; jet propulsion engines (except aircraft); outboard motors and propelling units; and parts, attachments, and accessories specifically designed for these enumerated products; (3) whether the geographic area of competition for contracts subject to the Walsh-Healey Public Contracts Act for products of the industry, or of the branches defined in (i) or (ii) of issue (2), extends to all the area in which the industry, or such branch thereof, has its plants, so as to require industrywide, or branchwide, minimum wage determination, or whether such competition is limited to smaller geographic areas (including the boundaries of such areas) so as to authorize separate minimum wage determinations for each area or locality in the industry, or in such branch thereof, and (4) what are the prevailing minimum wages for the industry or the localities or specified branches for which minimum wage determinations should be made. Interested persons may also submit evidence on the question of whether there is good cause to delay the effective date of any prevailing minimum wage determination or determinations made in any final decision in this proceeding for more than seven days after it is published in the FEDERAL REGISTER.

Data relating to competition in this industry for contracts subject to the Walsh-Healey Public Contracts Act have been collected by the Department of Labor. Employment and wage data in this industry for the payroll period ending nearest October 15, 1961, have also been gathered. This information will be submitted for consideration at the hearing and is now available to interested persons.

Written statements may be filed with the Chief Hearing Examiner at any time prior to the hearing by persons who cannot appear personally. An original and three copies of any such statement shall be filed, and shall include the reason or reasons for nonappearance. Such statements shall be under oath or affirmation, and will be offered in evidence at the hearing. If objection is made to the admission of any such statement, the presiding officer shall determine whether it will be received in evidence.

To the extent possible, the evidence of each witness and any sworn or affirmed statements of persons who cannot appear personally should permit evaluation on a plant-by-plant basis, and should state: (1) The number and location of plants in the industry and in the branches thereof described in (i) and (ii) of issue (2) to which the testimony of such witness or such written statement is applicable, (2) the number of workers in each such plant, (3) the minimum wage paid to covered workers (41 CFR 50–201.102) presently and, if possible, on or about October 15, 1961, and the number of covered workers at each such plant receiving such wages, and (4) the identity of any product not now included in the tentative definition of the industry set forth in this notice which should be included and of any product now included which should be excluded.

The hearing shall be conducted pursuant to the rules of practice for minimum wage determinations under the Walsh-Healey Public Contracts Act (41 CFR 50–203–15–203.22), and the amendments thereto published in the FEDERAL REGISTER on September 22, 1961 (26 F.R. 8945).

Signed at Washington, D.C., this 12th day of March 1962.

ARTHUR J. GOLDBERG,
Secretary of Labor.

[F.R. Doc. 62–2581; Filed, Mar. 15, 1962; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 191]

[Reg. Docket No. 1107; Draft Release No. 62–11]

OPERATION OUTSIDE OF THE UNITED STATES OF CIVIL AIRCRAFT OF UNITED STATES REGISTRY

Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (14 CFR 405.27), notice is hereby given that there is under consideration a proposal to adopt a new Part 191 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted, preferably in duplicate, to the Docket Section of the Federal Aviation Agency, Room C–226, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before June 18, 1962, will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons when the prescribed date for return of comments has expired.

The United States Government has received numerous complaints from various foreign governments that civil aircraft of United States registry have been flown in their airspace in violation of their rules and regulations. Such action by the operators of United States aircraft is becoming of increased concern to this country. Often these actions have caused considerable embarrassment to this Government. The failure to file flight plans or the disregard of flight plans filed have led on occasion to costly search and rescue operations by foreign governments. The ignoring of foreign traffic patterns and airport rules have almost caused serious accidents. Flights into prohibited areas have alarmed foreign governments and in some cases caused them to adopt certain security measures, including firing on the aircraft involved. United States Department of State has requested that the Federal Aviation Agency take appropriate action to insure that civil aircraft of United States registry are flown in accordance with the rules and regulations relating to the flight and maneuver of aircraft which are in effect in the foreign country, over or within which the flight is being made. The Department of State has pointed out that the United States Government has an obligation in this regard as a party to the 1944 Chicago Convention on International Civil Aviation (61 Stat. 1180), Article 12 of which reads as follows:

ARTICLE 12

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

Further, section 1102 of the Federal Aviation Act of 1958 requires the Civil Aeronautics Board and the Administrator of the Federal Aviation Agency in the exercise of their powers and the performance of their duties to do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement in force and to take into consideration any applicable laws and requirements of foreign countries which are parties to such treaties, conventions, or agreements. Section 1102 of the Act is as follows:

INTERNATIONAL AGREEMENTS

Sec. 1102 (72 Stat. 797, 49 U.S.C. 1502). In exercising and performing their powers and duties under this Act, the Board and the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries, and shall take into consideration any applicable laws and requirements of foreign countries and the Board shall not, in exercising and performing its powers and duties with with respect to certificates of convenience and necessity, restrict compliance by any carrier with any obligation, duty, or liability imposed by any foreign country: *Provided*, That this section shall not apply to any obligation, duty, or liability arising out of a contract or other agreement, heretofore or hereafter entered into between an air carrier, or any officer or representative thereof, and any foreign country, if such contract or agreement is disapproved by the Board as being contrary to the public interest.

In the case of air carriers, § 41.64 of the Civil Air Regulations and the operations specifications of those air carriers op-

erating under Part 42 require that they conform to the rules and regulations relating to the flight and maneuver of aircraft which are in effect in a foreign country over or within which the flight is made. However, except in the case of air carriers, no specific Civil Air Regulations have been promulgated generally requiring conformity with such foreign rules and regulations by United States registered aircraft operating abroad.

Accordingly, the Federal Aviation Agency proposes to promulgate a new Part 191 of the Civil Air Regulations requiring all civil aircraft of United States registry operating over and within foreign countries to fly in accordance with the rules of flight and maneuver of aircraft of the country concerned. Further, to insure compliance with such a regulation and to satisfy the Administrator as to the competence of persons operating civil aircraft of United States registry outside the United States and the airworthiness of such aircraft, it is proposed to require such persons to obtain a Foreign Flight Authorization. Foreign Flight Authorizations may be applied for and issued not only to pilots of such aircraft but to any person who engages in the "operation of aircraft" as that phrase is defined in section 101(26) of the Federal Aviation Act of 1958, as amended (72 Stat. 737, 49 U.S.C. 1301). This would include persons operating aircraft in the capacity of owner, lessee, or otherwise. Further, the Foreign Flight Authorization may be issued for single flights, a series of flights, or a continuing operation outside of the United States.

Article 31 of the Convention on International Civil Aviation requires that every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered. Article 32 of the Convention requires that the pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competence and licenses issued or rendered valid by the State in which the aircraft is registered. A Foreign Flight Authorization would be evidence of the fact that the Administrator is satisfied that the pilot and other members of the operating crew of the aircraft hold valid and appropriate airman certificates permitting them to operate a United States registered civil aircraft and that such aircraft has a valid airworthiness certificate. To this end, the proposed regulation would require that persons operating United States civil aircraft outside the United States provide the Administrator with satisfactory assurances that the aircraft used in such operation or operations has a valid airworthiness certificate; that the airmen operating the aircraft have valid United States airman certificates and are otherwise qualified for the type of flight or flights contemplated; and that those operating the aircraft are familiar with the applicable laws and regulations of the areas in which they will be operating as well as the applicable treaty obligations and applicable laws, regulations, and orders of the United States Government. The operations conducted outside of the United States must be accomplished in such a manner as to respect the obligations which the United States has undertaken by treaty. It will be noted that such Foreign Flight Authorization is not required for civil aircraft of the United States being operated in air transportation as defined by the Federal Aviation Act of 1958, as amended, or under authority of an air carrier operating certificate or operations specifications issued pursuant to Part 44 of the Civil Air Regulations. The need for requiring a Foreign Flight Authorization in such cases is obviated by the requirements surrounding the obtaining of an air carrier operating certificate, or operations specifications.

No Foreign Flight Authorization will be required for operations conducted solely over the high seas between the contiguous forty-eight States of the United States and the States of Hawaii and Alaska, or between the States of Hawaii and Alaska, or between the States of the United States and the Territories and possessions of the United States including the Commonwealth of Puerto Rico, or between the various Territories and possessions of the United States including the Commonwealth of Puerto Rico. Further, operations conducted between the United States and Canada or Mexico will not require the obtaining of a Foreign Flight Authorization. The volume and nature of the air traffic within and between the areas enumerated above is such that the requiring of a Foreign Flight Authorization would be unduly burdensome. It is important to note, however, that while certain operations do not require the obtaining of a Foreign Flight Authorization (see paragraph (b)(1), (b)(2), and (b)(3) of § 191.7), all operations outside of the United States must be conducted in accordance with the other applicable provisions of this part. In this connection, it is further anticipated that Part 41 of the Civil Air Regulations will be amended to delete therefrom the requirement presently contained in § 41.64 requiring compliance with foreign air traffic rules and local airport rules. Such compliance will be required by the provisions of this proposed new part. Similarly, it is contemplated that Part 60 of the Civil Air Regulations will be amended by deleting § 60.1a which requires United States registered aircraft operated over the high seas to comply with the applicable provisions of Annex 2 (Rules of the Air) to the Convention on International Civil Aviation. Such compliance will be required by the provisions of this proposed new regulation.

Violation of this regulation or of the terms and conditions of a Foreign Flight Authorization will subject the violator to appropriate enforcement action by the Administrator, including the revocation or suspension of his certificate or the imposition of a civil penalty. In addition to enforcement action, the Administrator, in appropriate cases, could withdraw the Foreign Flight Authorization. In those instances in which a Foreign Flight Authorization is withdrawn, the Administrator will notify the United States Department of State of such action, and request that such notification be communicated to the appropriate foreign governments. Such notifications will be for the purpose of informing the appropriate foreign governments that in light of its obligations under the Chicago Convention the United States Government does not sanction the operation outside of the United States of the operator whose Authorization has been withdrawn.

In consideration of the foregoing, it is proposed to promulgate a new Part 191 of the Civil Air Regulations to read as follows:

PART 191—RULES APPLICABLE TO THE OPERATION OUTSIDE OF THE UNITED STATES OF CIVIL AIRCRAFT OF UNITED STATES REGISTRY

Sec.

191.1 Applicability.
191.2 Airworthiness.
191.3 Airman certificates.
191.4 Foreign flight rules.
191.5 Operation over the high seas.
191.6 Lawful purpose.
191.7 Foreign Flight Authorization.

§ 191.1 Applicability.

The provisions of this part are applicable to the operation outside of the United States of civil aircraft of United States registry.

§ 191.2 Airworthiness.

No civil aircraft of United States registry shall be operated outside of the United States without a currently valid airworthiness certificate issued by the Administrator of the Federal Aviation Agency or his duly authorized representative, nor unless maintained, altered and repaired in accordance with the provisions of the Civil Air Regulations.

§ 191.3 Airman certificates.

No civil aircraft of United States registry shall be operated outside of the United States unless each airman serving in connection with the operation thereof has in his personal possession a valid United States airman certificate authorizing him to serve in such capacity.

§ 191.4 Foreign flight rules.

No civil aircraft of United States registry shall be operated in violation of the rules and regulations relating to the flight and maneuver of aircraft including the air traffic and local airport rules of the country in which such aircraft is being operated.

§ 191.5 Operation over the high seas.

No civil aircraft of United States registry shall be operated over the high seas in violation of the applicable provisions of Annex 2 (Rules of the Air) to the Convention on International Civil Aviation.

§ 191.6 Lawful purpose.

No civil aircraft of United States registry shall be operated contrary to the applicable laws, regulations, and orders of the United States or in a manner or for a purpose inconsistent with any obligation or commitment of the United States in any international treaty or agreement to which the United States is a party.

§ 191.7 Foreign Flight Authorization.

(a) *General.* No person shall operate civil aircraft of United States registry outside of the United States unless a Foreign Flight Authorization describing the operation authorized and prescribing the terms, conditions, and limitations applicable thereto has been issued by the Administrator; nor shall such operation be conducted otherwise than in acordance with the terms, conditions, and limitations set forth in such authorization.

(b) *Exceptions.* (1) No Foreign Flight Authorization shall be required for civil aircraft of United States registry operated under the provisions of an air carrier operating certificate authorizing overseas or foreign air transportation or operations specifications issued pursuant to Part 44 of the Civil Air Regulations.

(2) No Foreign Flight Authorization shall be required for civil aircraft of United States registry which are being operated solely over the high seas between:

(i) The contiguous forty-eight States of the United States and the States of Hawaii or Alaska; or

(ii) The States of Hawaii and Alaska; or

(iii) Any of the States of the United States and any Territory or possession of the United States including the Commonwealth of Puerto Rico; or

(iv) Any Territories or possessions of the United States including the Commonwealth of Puerto Rico.

(3) No Foreign Flight Authorization shall be required for civil aircraft of United States registry operating solely between the United States and any of the following areas, or solely within the following areas:

(i) Dominion of Canada;

(ii) Mexico.

(c) *Requirements for issuance.* A Foreign Flight Authorization will be issued to an applicant therefor who provides assurances satisfactory to the Administrator or his representative that:

(1) The aircraft to be used for the proposed operation has a valid airworthiness certificate and equipment adequate to insure safe operations;

(2) The airmen possess valid airman certificates and are otherwise qualified for the type of flight contemplated;

(3) The operation will not violate the applicable laws, regulations, and orders of the United States and is consistent with the obligations undertaken by the United States Government in connection with any treaty or other international agreement to which it is a party; and

(4) The airman who will be in command of the aircraft is familiar with the pertinent laws and regulations of the foreign countries through which the proposed flight will take place.

(d) *Application.* Application for a Foreign Flight Authorization shall be made in duplicate upon the applicable form prescribed and furnished by the Administrator.

(e) *Display.* The Foreign Flight Authorization shall be kept in the personal possession of the pilot in command at all times during operation pursuant to the authorization, and shall be presented for inspection upon the request of any authorized representative of the Administrator, and, when the aircraft is within any foreign country, upon the request of any authorized representative of such government or political subdivision thereof.

(f) *Duration.* A Foreign Flight Authorization shall be limited to the period prescribed on such authorization, unless sooner surrendered by the holder, or withdrawn by the Administrator.

This regulation is proposed under the authority of sections 313(a), 601–610, and 1102 of the Federal Aviation Act of 1958 (72 Stat. 752, 775–780, 797; 49 U.S.C. 1354(a), 1421–1430, 1502).

Issued in Washington, D.C., on March 12, 1962.

GEORGE C. PRILL,
Director,
Flight Standards Service.

[F.R. Doc. 62–2560; Filed, Mar. 15, 1962; 8:46 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Redelegation of Authority by Land Office Manager

MARCH 2, 1962.

Pursuant to authority delegated to me by sec. 2.1, Part II, Bureau Order No. 684, dated August 28, 1961 (26 F.R. 8216), I hereby redelegate to the Chief, Minerals Section, Land Office, Bureau of Land Management, Sacramento, California, authority to take action for the Manager in matters listed in sec. 2.6 Minerals, Part II, of said Bureau Order No. 684, and I hereby redelegate to the Chief, Lands Section, Bureau of Land Management, Sacramento, California, authority to take action for the Manager in matters listed in sec. 2.9 Land Use, Part II, of said Bureau Order No. 684, said redelegations to be effective as of February 6, 1962.

WALTER E. BECK,
Manager, Land Office,
Sacramento.

Approved: March 2, 1962.

NOLAN F. KELL,
Acting State Director,
Bureau of Land Management.

[F.R. Doc. 62-2553; Filed, Mar. 15, 1962; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

ALICEVILLE SALE BARN ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said act and are, therefore, no longer subject to the provisions of the act.

Name and Location of Stockyard and Date of Posting

Aliceville Sale Barn, Aliceville, Ala.: May 20, 1959.

Broadway and Weaver Auction, Metropolis, Ill.: November 27, 1959.

Sandpoint Livestock Auction Co., Sandpoint, Idaho: October 1, 1959.

Frederick Stockyards (formerly Tillman County Livestock Sale), Frederick, Okla.: March 19, 1951.

Talihina Livestock Auction, Talihina, Okla.: October 19, 1961.

Avondale Livestock Auction, Avondale, Pa.: May 9, 1961.

Lawrence County Stock Yards, Lawrenceburg, Tenn.: May 27, 1959.

Othello Livestock Auction, Inc., Bruce, Wash.: May 24, 1960.

Beaver Bay Livestock, Inc., Beaver Dam, Wis.: March 13, 1961.

The owners of the Sandpoint Livestock Auction Co., Sandpoint, Idaho, have constructed a new stockyard in another location and notice of proposed posting of the new market will be issued.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not depositing promptly a stockyard which is no longer within the definition of that term contained in the act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 12th day of March 1962.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 62-2592; Filed, Mar. 15, 1962; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-32]

AEROJET-GENERAL NUCLEONICS

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 8 to Facility License No. R-10, set forth below. The amendment (1) authorizes Aerojet-General Nucleonics to operate its nuclear reactor Model AGN-201, Serial No. 103, at power levels up to 20 watts thermal at a new location in Room 1C in Building 1 on the Licensee's plant site in San Ramon, California, and (2) requires the licensee to conduct certain surveys concerning the effectiveness of the reactor shielding.

The Commission has found that operation of the reactor in accordance with the license amendment will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has further found that prior public notice of proposed issuance of this license amendment is not necessary in the public interest since operation of the reactor in accordance with the license amendment will not present any substantial change in the hazards to the health and safety of the public from those previously considered and evaluated in connection with the previously approved operation of the reactor.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of issuance of the license amendment upon receipt of a request therefor from the licensee or a petition to intervene within 15 days after the publication of this notice in the FEDERAL REGISTER. Petitions for leave to intervene and requests for a formal hearing shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

For further details see (1) the application for license filed under Docket No. 50-32, and (2) a related hazards analysis prepared by the Research and Power Reactor Stafety Branch of the Division of Licensing and Regulation, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 2d day of March 1962.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R-10; Amdt. 8]

Effective as of the date of issuance set forth below, License No. R-10 is revised in its entirety to read as follows:

1. On September 11, 1956, Aerojet-General Nucleonics (hereinafter "the licensee") of San Ramon, California, filed an application requesting authorization to construct and operate at San Ramon, a nuclear reactor designated as Model AGN-201, Serial No. 103 (hereinafter "the reactor"). Application amendments were filed on October 2, 1956, December 3, 1956, January 14, 1957, and February 11, 1957. On March 29, 1957, the Atomic Energy Commission (hereinafter "the Commission") issued Facility License No. R-10 which authorized the licensee to operate the reactor at power levels up to 100 milliwatts (thermal) in Room 1B in Building 1 on the licensee's plant site in San Ramon, California.

On June 17, 1957, the Commission issued Amendment No. 1 to License No. R-10 which authorized transfer of the reactor to any person authorized to acquire it.

On July 8, 1957, the Commission issued Construction Permit No. CPRR-12 which au-

thorized the licensee to modify the reactor for operation at 5 watts (thermal).

On July 10, 1957, the Commission issued Amendment No. 2 to License No. R–10 which authorized the licensee to operate the reactor at power levels not in excess of 5 watts (thermal).

By application amendments dated August 22, 1957 and May 23, 1958, the licensee respectively amended the hazards summary report for the reactor, including revised operating, maintenance and emergency procedures, and provided additional information concerning the reactor fuel and certain reactivity values.

On August 22, 1958, the Commission issued Amendment No. 3 to License No. R–10 which authorized the licensee to operate the reactor at power levels up to 20 watts (thermal) as requested by the application amendment dated June 17, 1958.

On March 4, 1959, the Commission issued Amendment No. 4 to License No. R–10 which authorized an increase in the fuel loading of the reactor to raise the excess reactivity from 0.2 percent to 0.35 percent as requested by the application amendment dated December 29, 1958.

On March 18, 1959, the Commission issued Amendment No. 5 to License No. R–10 which incorporated into the license the high level flux scram and its settings as described in the application amendment dated January 6, 1959.

On August 1, 1961, the Commission issued Amendment No. 6 to License No. R–10 which added a reporting requirement and incorporated into the license the procedures with respect to operations which could involve changes in core reactivity when the reactor is shut down described in the licensee's letter to the Commission dated January 17, 1961.

On October 25, 1961 the Commission issued Amendment No. 7 to License No. R–10 which amended the description of the reactor to include the changes in the instrumentation and control described in the licensee's July 20, 1961 letter to the Commission.

On December 7, 1961, the Commission issued Construction Permit No. CPRR–69 which authorized the licensee to relocate the reactor from Room 1B to Room 1C in Building 1 on the licensee's site in San Ramon, California, as requested by the application amendment dated November 6, 1961.

By application amendment dated January 3, 1962, the licensee described certain items relating to the scram circuitry for the reactor and by letter to the Commission dated January 22, 1962, the license described the new location of a criticality accident monitor.

The original application, all amendments thereto submitted to date, and the licensee's letters to the Commission dated January 17, 1961, July 20, 1961, and January 22, 1962 are hereinafter collectively referred to as "the application."

2. Pursuant to the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act") and having considered the record in this matter, the Commission finds that:

A. There is reasonable assurance that the reactor will operate in conformity with the application and in conformity with the provisions of the Act and of the rules and regulations of the Commission;

B. There is reasonable assurance that the reactor can be operated in the room designated 1C in Building 1 on the licensee's site in San Ramon, California, described in the application without endangering the health and safety of the public;

C. The licensee is technically and financially qualified to operate the reactor and to assume financial responsibility for payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time;

D. The possession and operation of the reactor and the receipt, possession and use of the special nuclear material in the manner proposed in the application will not be inimical to the common defense and security or to the health and safety of the public;

E. The licensee has submitted proof of financial protection which satisfies the requirements of Commission regulations currently in effect; and

F. Relocation of the reactor has been completed in accordance with the terms and conditions of Construction Permit No. CPRR–69.

3. In view of the foregoing and subject to the conditions and requirements incorporated herein, the Commission hereby licenses the licensee:

A. Pursuant to section 104c of the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities," to possess and operate the reactor at the designated location in Room 1C in Building 1 on the licensee's site in San Ramon, California, in accordance with the procedures and limitations described in the application and this license.

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material," to receive, possess and use up to 700 grams of contained uranium 235 in connection with the operation of the reactor.

C. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material," to possess but not to separate such byproduct material as may be produced from operation of the reactor.

4. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50, § 70.32 of Part 70, and § 30.32 of Part 30, Title 10, Chapter I CFR and to be subject to all applicable provisions of the Act, and to the rules, regulations and orders of the Commission now or hereafter in effect, and to the additional conditions specified below:

A. The licensee shall not operate the reactor at steady state power levels in excess of 20 watts (thermal) without previous authorization from the Commission.

B. The fuel loading of the reactor may not provide an excess reactivity of more than 0.35 percent, based on operation at 20° C. with the glory hole unloaded.

C. The reactor shall not be operated with any of the scram signals bypassed.

D. The licensee shall, with respect to operations which could involve changes in core reactivity when the reactor is shut down, follow the procedures described in its letter to the Commission dated January 17, 1961.

E. Prior to permitting any individual to enter areas over or near the top of the reactor, the licensee shall make, and record the results of, appropriate surveys of such areas to assure that radiation doses received by such individuals will not exceed the applicable limits established in Title 10, CFR, Chapter I, Part 20, "Standards For Protection Against Radiation."

F. Prior to opening of the core tank, the licensee shall take suitable precautions to assure that when such tank is opened there is no spread of gaseous or particulate radioactive material in areas outside the tank.

G. The reactor shall be operated with a high-level flux scram provided on all three flux-monitoring channels and set no higher than 30 percent above the authorized power level, as described in the licensee's application amendment dated January 6, 1959.

H. In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) Reactor operating records, including power levels.

(2) Records of in-pile irradiations.

(3) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at the point of such release or discharge.

(4) Records of emergency reactor scrams, including reasons for emergency shutdowns.

I. The licensee shall immediately report to the Commission any indication or occurrence of a possible unsafe condition relating to the operation of the reactor.

J. The licensee shall promptly submit a written report to the Commission whenever, during operation of the reactor, any of the operating conditions or characteristics of the reactor which might affect nuclear safety varies significantly from its predicted value.

K. Within 60 days after the date of issuance, set forth below, the licensee shall conduct a survey of radiation levels around and over the reactor during operation of the reactor and shall submit to the Commission a written report describing the results of this survey. This survey and report shall establish the integrity of the radiation shielding and the report shall describe any shielding added to accomplish compliance with standards set forth in Title 10, CFR, Chapter I, Part 20. Further, the report shall include a statement of general performance of the reactor and its controls.

5. A. The licensee is authorized to transfer possession or title, or both to the reactor to any person licensed to acquire such possession or title, or both, as the case may be.

B. The physical transfer of the reactor shall be accomplished in accordance with the procedures set forth in the licensee's application amendment filed with the Commission on March 25, 1957.

C. The transfer of title pursuant to this paragraph 5., if undertaken separately from the transfer of possession, shall not affect the responsibility of the licensee for full compliance with the requirements and conditions of this license.

D. Upon the completion of the transfer of possession and title to the reactor pursuant to this license, this license shall be terminated without further notice.

6. Unless terminated previously as provided in paragraph 5D. above, this license shall expire on February 21, 1977.

Date of issuance: March 2, 1962.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 62–2566; Filed, Mar. 15, 1962; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Order No. 90 (Revised), Amdt. 2]

NATIONAL BUREAU OF STANDARDS

Organization and Functions

The following amendment to the order was issued by the Secretary of Commerce on March 2, 1962.

The material appearing at 26 F.R. 7976–7977 of August 25, 1961, and 27 F.R. 1227 of February 9, 1962, is further amended as follows:

Department Order No. 90 (Revised) of June 29, 1961, Section 2.02, 2 is amended to read as follows:

2 Scientific divisions in Washington, D.C.:

Electricity,
Metrology,
Heat,
Radiation Physics,
Analytical and Inorganic Chemistry,
Mechanics,
Polymers,

Metallurgy,
Inorganic Solids,
Building Research,
Applied Mathematics,
Data Processing Systems,
Atomic Physics,
Instrumentation,
Physical Chemistry,
Weights and Measures, Office of.

Effective date: March 2, 1962.

JOHN PRINCE,
Deputy Assistant Secretary for Administration.

[F.R. Doc. 62-2576; Filed, Mar. 15, 1962; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-366]

ACCIDENT OCCURRING AT JAMAICA BAY, LONG ISLAND, N.Y.

Notice of Hearing

In the matter of investigation of accident involving aircraft of United States Registry N 7506A, which occurred on March 1, 1962, at Jamaica Bay, Long Island, New York.

Notice is hereby given that an Accident Investigation Hearing on the above-styled matter will be held commencing March 20, 1962, at 10:00 a.m., local time, in the International Hotel, New York International Airport, Jamaica, New York.

Dated this 9th day of March 1962.

[SEAL] DAVID A. BEARDSLEY,
Hearing Officer.

[F.R. Doc. 62-2577; Filed, Mar. 15, 1962; 8:47 a.m.]

[Docket No. 12630]

AVIATION ENTERPRISES, INC., ET AL.

Notice of Hearing

In the matter of the application of Aviation Enterprises, Inc., Lease Air, Inc., and Forest Beckett for approval of control and interlocking relationships.

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 March 28, 1962, at 10 a.m., e.s.t., in Room 1029, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., March 13, 1962.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-2578; Filed, Mar. 15, 1962; 8:48 a.m.]

[Docket No. 11879; Order E-18095]

AGREEMENT ADOPTED BY JOINT CONFERENCE OF INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

MARCH 13, 1962.

In the matter of an agreement adopted by Joint Conference 1-2-3 of the International Air Transport Association relating to specific commodity rates; Docket 11879, Agreement C.A.B. 16250.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2-3 of the International Air Transport Association (IATA). The agreement was adopted at the eighteenth meeting of the Atlantic Specific Commodity Rates Board, held in Paris, on February 6, 1962, and has been assigned the above-designated C.A.B. Agreement number.

The agreement names a number of additional specific commodity rates as set forth in the listing below.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the above-described agreement is adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered:

Accordingly, it is ordered:

That agreement C.A.B. 16250 is approved, provided that such approval shall not constitute approval of any specific commodity description contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this Order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions on or before March 22, 1962.

This order shall be effective and become the action of the Civil Aeronautics Board on March 23, 1962, unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Commodity Item No.	*Rates*
1407	92 cents per kilogram, minimum weight 100 kilograms; from Hamburg to New York City.
1421	79 cents per kilogram, minimum weight 250 kilograms; 68 cents per kilogram, minimum weight 500 kilograms; from Dusseldorf to New York City.
	81 cents per kilogram, minimum weight 250 kilograms; 70 cents per kilogram, minimum weight 500 kilograms; from Hamburg to New York City.
2102	61 cents per kilogram, minimum weight 2500 kilograms; from Shannon/Dublin to New York City/Boston.
2331	77 cents per kilogram, minimum weight 45 kilograms; from Prague to Montreal.[1]
	70 cents per kilogram, minimum weight 45 kilograms; from Brussels/Antwerp to New York City.
2949	130 cents per kilogram, minimum weight 45 kilograms; 125 cents per kilogram, minimum weight 250 kilograms; 120 cents per kilogram, minimum weight 500 kilograms; from Tel Aviv to New York City.
4202	76 cents per kilogram, minimum weight 45 kilograms; 71 cents per kilogram, minimum weight 1000 kilograms; between New York City and Vienna.
7103	73 cents per kilogram, minimum weight 100 kilograms; 65 cents per kilogram, minimum weight 2000 kilograms; from Hamburg to New York City.

[1] Under the terms of the basic agreement, a rate to/from Montreal may be applied to/from New York City.

[F.R. Doc. 62-2579; Filed, Mar. 15, 1962; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14085 etc.; FCC 62M-367]

COMMUNITY SERVICE BROADCASTERS, INC., ET AL.

Order Continuing Hearing

In re applications of Community Service Broadcasters, Incorporated, Ypsilanti, Michigan, Docket No. 14085, File No. BP-13846; Robert L. Taylor, James Harris, Robert Tripp, Edward P. Oyster, William A. Myers, and Robert M. Myers, d/b as Lapeer Broadcasting Company, Lapeer, Michigan, Docket No. 14296, File No. BP-14304; et al., Group I, Docket Nos. 14287, 14288, 14289, 14290, 14291, 14292, 14293, 14294, 14295, 14298, 14299, 14300, 14303, 14304, 14305, 14306; for construction permits.

The Hearing Examiner having under consideration a motion for continuance, filed by Robert L. Taylor, et al., d/b as Lapeer Broadcasting Company, on March 12, 1962;

It appearing, that counsel for other parties to Group I of this proceeding have consented to immediate consideration and grant of the motion;

It is ordered, This 12th day of March 1962, that the above motion is granted; and the hearing presently scheduled for March 13, 1962, is continued without date pending consideration and disposition of (1) a petition for severance filed March 5, 1962, and (2) a joint request for approval of agreement and a supplement thereto filed respectively on March 6 and 7, 1962, in this proceeding.

Released: March 13, 1962.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-2584; Filed, Mar. 15, 1962; 8:48 a.m.]

[Docket No. 14255; FCC 62M-368]

RADIO-ACTIVE BROADCASTING, INC. (WATO)

Order Canceling Conference

In re application of Radio-Active Broadcasting, Inc. (WATO), Oak Ridge, Tennessee, Docket No. 14255, File No. BP-13833; for construction permit.

The Hearing Examiner having under consideration a Petition for Leave To Amend filed by Radio-Active Broadcasting, Inc. (Radio Active), on March 6, 1962, and Comments of the Broadcast

Bureau (Bureau) on Petition for Leave To Amend filed on March 9, 1962;

It appearing, that the amendment offered by Radio-Active is designed to eliminate and render moot the issues upon which this matter was designated for hearing;

It further appearing, that the Bureau supports a grant of the alternative request of Radio-Active, that is the one pursuant to 47 CFR 1.311(c), and alleges that Radio-Active now concurs that its Petition should be granted pursuant to that provision;

It further appearing, that the Bureau in its comments alleges that, in view of the foregoing, it is the consensus of all parties that there is no need to hold the further prehearing conference now scheduled for March 12, 1962; and

It further appearing, that good cause has been shown for canceling such further prehearing conference at this time;

It is ordered, This 9th day of March 1962, that the further prehearing conference now scheduled to be held on March 12, 1962, is canceled subject to such further order of the Examiner as may be issued upon consideration of the substantive merits of the Petition for Leave To Amend and the responses thereto.

Released: March 13, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-2585; Filed, Mar. 15, 1962; 8:48 a.m.]

[Docket Nos. 14559-14561; FCC 62-260]

WPOW, INC., ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of WPOW, Inc., New York, New York, Docket No. 14559, File No. BR-263, for renewal of license of Station WPOW, has ?6 hours weekly, 1330 kc, 5 kw, requests 42 hours weekly, 1330 kc, 5 kw; Rensselaer Polytechnic Institute, Troy, New York, Docket No. 14560, File No. BR-267, for renewal of license of Station WHAZ, has 7 hours weekly, 1330 kc, 1 kw, requests 15 hours weekly, 1330 kc, 1 kw; Debs Memorial Radio Fund, Incorporated, New York, New York, Docket No. 14561, File No. BR-270, for renewal of license of Station WEVD (Main and Auxiliary), has 108.75 hours weekly, 1330 kc, 5 kw, requests 137 hours weekly, 1330 kc, 5 kw.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 7th day of March 1962;

The Commission having under consideration the above-captioned applications for renewal of licenses; and

It appearing, that, the above-captioned applications are mutually exclusive in that the applicants have been unable to agree on the weekly hours of operation on 1330 kc; that the total combined number of hours requested exceeds the weekly time available; and that operation by each of the applicants as proposed will result in mutually destructive interference; and

It further appearing, that, upon due consideration of the above applications, the Commission is unable to find that a grant of the said applications for renewal of license would serve the public interest, convenience or necessity; that, therefore, a hearing is required; and that no questions exist as to the qualifications of the applicants except as to the matters involved in the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 3.78 of the Commission's rules, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the operations of Stations WHAZ, WEVD, and WPOW and the availability of other primary services to such areas and populations.

2. To determine the nature and the extent of the interference which each of the proposed operations would cause to and receive from the others and the interference which each of the instant proposals would receive from all other existing standard broadcast stations, the areas and populations affected thereby, the availability of other primary service to such areas and populations affected by interference from any of the instant proposals.

3. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, whether a fair, efficient and equitable distribution of radio service would be provided to a greater extent (a) by continuing in some manner the share-time operations of the subject stations on 1330 kc as they have heretofore operated, or (b) by reassessing the prior operations with the view toward restricting, as appropriate, the daytime and/or nighttime use of the frequency by any of all of the stations involved.

4. To determine, in light of the evidence adduced with respect to the foregoing issues, the extent to which the above-captioned applications may be granted, consistent with the public interest, convenience or necessity.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order;

It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.362(g) of the rules.

Released: March 13, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-2586; Filed, Mar. 15, 1962; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

BOSTON MARINE TERMINAL ASSOCIATION

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814):

Agreement No. 8785, between the present members of the Boston Marine Terminal Association, provides for a cooperative working arrangement relative to wharfage, dockage, free time, wharf demurrage, usage charges, passenger charges, water and electricity at the marine terminal facilities of the parties in Boston, Massachusetts. This agreement, if approved, will cancel the present agreement of the parties, Federal Maritime Commission Agreement No. 8365.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 12, 1962.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 62-2556; Filed, Mar. 15, 1962; 8:45 a.m.]

CENTRAL GULF LINES ET AL.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814):

Agreement No. 8765, between Central Gulf Lines, Isthmian Lines, Levant Line (Joint Service), Lykes Bros. Steamship Company, States Marine Lines and Global Bulk Transport Corporation (as one member), T. J. Stevenson & Co., Inc.,

and Waterman Steamship Corporation, covers an arrangement whereby the carriers may discuss, agree upon, and maintain stable rates, charges and practices for and in connection with the transportation of certain specified commodities in the trade from U.S. Gulf of Mexico and South Atlantic ports in the Brownsville-Wilmington range, to all ports serviced in the Mediterranean, including Adriatic, Black Sea and Gulf of Taranto ports, and Spanish and Moroccan ports. Under this agreement, the carriers agree to follow the rates and rules and regulations of the U.S. Gulf/Mediterranean Ports Conference Tariff Nos. 6 and 7 as such tariffs apply to the specified commodities.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Foreign Regulation, Federal Maritime Commission, Washington, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 12, 1962.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 62–2554; Filed, Mar. 15, 1962; 8:45 a.m.]

PORT OF SEATTLE AND AMERICAN MAIL LINE, LTD.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814):

Agreemnt No. 8805, between the Port of Seattle and the American Mail Line, Ltd., provides for a five year lease of certain terminal facilities and property in the Port of Seattle, Washington, at terms and conditions contained in the agreement.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 12, 1962.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 62–2555; Filed, Mar. 15, 1962; 8:45 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL DIRECTOR OF COMMUNITY FACILITIES ACTIVITIES, REGION VI, SAN FRANCISCO

Redelegation of Authority With Respect to Loans for Housing for the Elderly

The Regional Director of Community Facilities Activities, Region VI (San Francisco), with respect to the program of loans for housing for the elderly authorized under section 202 of the Housing Act of 1959, as amended (73 Stat. 667, as amended, 12 U.S.C. 1701q), is hereby authorized to take the following action within such region:

1. To execute loan agreements;

2. To amend or modify any such loan agreement.

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c; Housing and Home Finance Administrator's delegation effective Feb. 27, 1962 (27 F.R. 1850, Feb. 27, 1962))

Effective as of the 16th day of March 1962.

[SEAL] J. G. MELVILLE,
Regional Administrator,
Region VI.

[F.R. Doc. 62–2587; Filed, Mar. 15, 1962; 8:48 a.m.]

REGIONAL DIRECTOR OF COMMUNITY FACILITIES ACTIVITIES, REGION VI, SAN FRANCISCO

Redelegation of Authority With Respect to Area Redevelopment Act

The Regional Director of Community Facilities Activities, Region VI (San Francisco), is hereby authorized to carry out the provisions of sections 7 and 8 of the Area Redevelopment Act (Public Law 87–27, 42 U.S.C. 2506 and 2507) by performing the following functions within such region:

1. To execute offers for approved loans and/or grants and to execute approved amendments or modifications of contracts resulting from the acceptance of such offers.

2. To determine that loans made under section 7 of the act are in compliance with the requirements of sections 7(a)(2), 7(a)(3), 7(a)(4), 7(b), and 7(d).

3. To determine that grants made under section 8 of the act are in compliance with sections 8(a)(2) and 8(c) of the act; that there is little probability that such projects can be undertaken without the assistance of a grant under section 8; and that the amount of any grant under section 8 for a project does not exceed the difference between the funds which can be practicably obtained from other sources (including a loan under section 7 of the act) for such project and the amount which is necessary to insure the completion thereof.

4. To exercise the powers, duties, and functions vested in the Secretary of Commerce by sections 19 and 21 of the act in connection with any loans or grants proposed to be made under section 7 or 8 of the act.

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c; Housing and Home Finance Administrator's redelegation effective May 1, 1961 (26 F.R. 7992, Aug. 25, 1961))

Effective as of the 16th day of March 1962.

[SEAL] J. G. MELVILLE,
Regional Administrator,
Region VI.

[F.R. Doc. 62–2588; Filed, Mar. 15, 1962; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–1466]

ATLAS CORP. AND HIDDEN SPLENDOR MINING COMPANY

Notice of Filing of Application for an Order Exempting Proposed Transaction

MARCH 9, 1962.

Notice is hereby given that Atlas Corporation ("Atlas") (80 Pine Street, New York 5, N.Y.), a Delaware corporation and a closed-end nondiversified investment company registered under the Investment Company Act of 1940 ("Act"), and The Hidden Splendor Mining Company ("Hidden Splendor"), First Security Bldg., Box 2306, Salt Lake City 10, Utah, also a Delaware corporation and an affiliate of Atlas, have filed a joint application and amendments thereto pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed sale by Atlas of all the outstanding common stock of Petro-Atlas, Inc. ("Petro") to Hidden Splendor for a consideration of 258,594 shares of Hidden Splendor common stock. All interested persons are referred to the amended application on file with the Commission, summarized below, for a complete statement thereof:

Petro is a Delaware corporation which was incorporated on April 2, 1958. Atlas paid $25,000 in cash to Petro for the 1,000 shares of Petro common stock outstanding. Thereafter, Atlas contributed certain oil and gas properties to Petro having a cost to Atlas of $3,756,648. Atlas' cost of its investment in Petro, adjusted for distributions received from Petro and treated by Atlas as a return of capital, was $1,984,228 on November 1, 1961.

In 1960 Petro sold substantially all of its developed oil and gas properties to Hidden Splendor. Subsequently, the major assets of Petro have consisted primarily of undeveloped oil and gas interests in Alaska, Arizona, Kansas, Louisiana, Nebraska, New Mexico, Texas and Utah. Petro's net assets as of November 1, 1961, were valued by its manage-

ment at $1,551,565, as compared to the historical cost of $1,452,180 of these assets as of the same date.

A value of $193,360 was assigned to the producing royalties and leases determined on the basis of present and estimated future income which was discounted at from 30 to 40 percent; a value of $893,462 to the undeveloped leasehold interests, determined on the basis of proximity to other producing properties, oil and gas reserves in the area, potential producing zones, geology, remaining term of the leases, size and concentration of the block, activity in the area and the possibility of promoting development on the company's leases; and a value of $294,743 was assigned to the nonproducing royalty interests, determined on the basis of land values indicated by recent trades for similar or comparable properties in the area. To these amounts there was added net current assets of $170,000 to arrive at the aggregate value.

Hidden Splendor, a Delaware corporation, is engaged in the operation of mining and oil interests in certain Western States. Atlas owns 4,275,768 shares, or approximately 92 percent of the outstanding common stock of Hidden Splendor. Upon consummation of the proposed transaction, Atlas will hold about 93 percent of the total outstanding common stock of Hidden Splendor.

Applicants state that the proposed transaction is a step in a long-range program to concentrate the natural resource assets of Atlas under the aegis of Hidden Splendor. Upon consummation of the proposed transaction Petro will become a wholly owned subsidiary of Hidden Splendor.

The number of shares to be issued to Atlas was determined by dividing the value of Petro's net assets as of November 1, 1961 ($1,551,565) by 6, which represents the approximate average of the bid and asked prices in the over-the-counter market of the common stock of Hidden Splendor on such date. The average bid price for Hidden Splendor common stock was $5.92 on October 31, 1961, $5.96 on November 1, 1961, and $6.00 on November 2, 1961. The average asked price for the stock was $6.29 on October 31, 1961, $6.33 on November 1, 1961, and $6.41 on November 2, 1961. On March 2, 1962, the bid price was 6⅛ with an average of 6½ asked.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered investment company or any company controlled by such registered investment company, any security or other property, subject to certain exceptions, unless the Commission upon application pursuant to section 17(b) grants an exemption from the provision of section 17(a), after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than March 29, 1962, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

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

[F.R. Doc. 62–2561; Filed, Mar. 15, 1962; 8:46 a.m.]

[File Nos. 812–1482—1484]

DE VEGH MUTUAL FUND, INC.

Notice of Filing of Applications for Exemption From Provisions Requiring Investment Advisory Contracts To Be Approved by Stockholders

MARCH 8, 1962.

In the matter of de Vegh Mutual Fund, Inc., File No. 812–1483; de Vegh Investing Company, Inc., File No. 812–1484; Continental American Fund, Inc., File No. 812–1482; (26 Broadway, New York 4, New York).

Notice is hereby given that de Vegh Mutual Fund, Inc., de Vegh Investing Company, Inc. and Continental American Fund, Inc. ("the Funds"), each an open-end management investment company, have filed applications pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting investment advisory contracts between the Funds and de Vegh & Company, a partnership providing investment advisory services to the Funds, from the provisions of section 15(a) of the Act to the extent that such contracts require approval by a vote of a majority of the outstanding voting securities of the Funds.

The applications state, among other things, that de Vegh & Company has provided investment advisory services to de Vegh Mutual Fund, Inc., and de Vegh Investing Company since July 1, 1960, and to Continental American Fund, Inc., since April 15, 1959 pursuant to written contracts which provided for their automatic termination in the event of their assignment. An assignment is defined in section 2(a)(4) of the Act as including any direct or indirect transfer by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. The partnership of de Vegh & Company included three partners, with Mr. Imrie de Vegh owning a majority of the beneficial interest. The death of Imrie de Vegh constituted a transfer of a controlling interest in de Vegh & Company and an assignment of the advisory contracts with the Funds.

De Vegh & Company proposes to continue to furnish investment advisory services to the Funds until new advisory contracts are approved by the shareholders of the Funds. The requested order would exempt the Funds and de Vegh & Company from the provisions of section 15(a) retroactively from February 3, 1962, the date of Imrie de Vegh's death, to the date of the order, and from the date of the order to the date of the next annual stockholders' meeting at which time new advisory agreements will be submitted to stockholders. (De Vegh Mutual Fund will hold its next annual stockholders' meeting on April 2, 1962, de Vegh Investment Company on March 27, 1962 and Continental American Fund, Inc. on April 10, 1962.)

Section 15(a) of the Act provides, among other things, that no person shall serve as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the outstanding voting securities of such registered company and which provides for its automatic termination in the event of its assignment by the investment adviser. The Commission may exempt transactions from the requirements of the Act pursuant to section 6(c) thereof to the extent that such exemption is necessary or appropriate to the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 26, 1962, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission on the basis of the showing contained in said application, unless an

order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

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

[F.R. Doc. 62-2562; Filed, Mar. 15, 1962; 8:46 a.m.]

[File No. 70-4026]

MISSISSIPPI POWER CO.

Notice of Proposed Issuance and Sale at Competitive Bidding of First Mortgage Bonds and Issuance of First Mortgage Bonds for Sinking Fund Purposes

MARCH 8, 1962.

Notice is hereby given that Mississippi Power Company ("Mississippi"), 2500 14th Street, Gulfport, Mississippi, a Maine corporation and a public utility subsidiary company of The Southern Company ("Southern"), a registered holding company, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a) and 7 of the Act and Rule 50 thereunder as applicable to the proposed transactions.

All interested persons are referred to the declaration on file in the office of the Commission for a statement of the proposed transactions which are summarzied as follows:

Mississippi proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $6,000,000 principal amount of its First Mortgage Bonds, Series due 1992. The interest rate on the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Mississippi (which will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the Indenture dated as of September 1, 1941, between Mississippi and Morgan Guaranty Trust Company of New York, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of April 1, 1962.

The proceeds from the sale of the bonds will be applied toward the construction or acquisition of permanent improvements, extensions and additions to Mississippi's utility plant, which improvements are estimated to aggregate $10,549,091 for 1962, and for the payment of outstanding short-term bank loans which at December 31, 1961, amounted to $1,881,550.

Mississippi further proposes, on or prior to June 1, 1961, to issue $472,000 principal amount of First Mortgage Bonds, 4⅝ percent Series due 1987, under the provisions of the above-described Indenture and to surrender such bonds to the Trustee in accordance with the sinking fund provisions. The bonds are to be identical with those authorized April 3, 1957 (Holding Company Act Release No. 13437) and are to be issued on the basis of property additions thus making available for construction purposes cash which would otherwise be used to satisfy sinking fund requirements or to purchase bonds for such purpose.

It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The fees and expenses to be paid in connection with the proposed issuance and sale of bonds at competitive bidding are to be supplied by amendment. The fees and expenses to be paid in connection with the issuance of bonds for sinking fund purposes are estimated at $500.

Notice is further given that any interested person may, not later than March 27, 1962, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon declarant, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. At any time after said date, the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

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

[F.R. Doc. 62-2563; Filed, Mar. 15, 1962; 8:46 a.m.]

[File No. 70-4023]

NEW ORLEANS PUBLIC SERVICE, INC.

Notice of Proposed Issuance and Sale at Competitive Bidding of First Mortgage Bonds

MARCH 8, 1962.

Notice is hereby given that New Orleans Public Service Inc. ("New Orleans"), 317 Baronne Street, New Orleans 9, Louisiana, a public utility company and a subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b) and 7 of the Act and Rules 23 and 50 promulgated thereunder as applicable to the proposed transaction.

All interested persons are referred to the application, on file at the office of the Commission, for a statement of the transaction therein proposed which is summarized as follows:

New Orleans proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $8,000,000 principal amount of First Mortgage Bonds, __ percent Series due 1992. The new bonds shall be sold for not less than the principal amount and not more than 102¾ percent of such principal amount and shall bear an interest rate (which shall be a multiple of one-eighth of 1 percent) of not more than 6 percent per annum. The new bonds are to be issued under the company's Mortgage and Deed of Trust, dated as of July 1, 1944, to the Chase National Bank of the City of New York (now The Chase Manhattan Bank) and Carl E. Buckley (Arthur F. Henning, successor), as Trustees, as heretofore supplemented and as to be further supplemented by a Sixth Supplemental Indenture to be dated as of April 1, 1962.

The net proceeds from the sale of the new bonds will be applied by New Orleans toward the financing of the construction of the Company's Michoud Steam-Electric Generating Station Unit No. 2 and facilities related thereto.

The fees and expenses to be incurred by New Orleans in connection with the proposed transaction are estimated as follows:

Federal stamp tax	$8,800
Filing fee, Securities and Exchange Commission	822
Charges of trustee	7,000
Fee of Haskins & Sells	3,250
Printing, including Form S-9, prospectus, supplemental indenture, etc	17,000
Printing and engraving securities	2,750
Charges of Ebasco Services Inc	1,500
Fees of company's counsel:	
Chaffe, McCall, Phillips, Burke & Hopkins	1,500
Jones, Walker, Waechter, Poitevent, Carrere & Denegre	1,500
Reid & Priest	7,500
Miscellaneous expenses	8,378
Total	60,000

Fees in the amount of $5,000 and out-of-pocket expenses of Messrs. Beekman & Bogue, counsel for the underwriters, will be paid by the successful bidders.

The application states that the Council of the city of New Orleans, a State commission of the State in which the company is organized and doing business, has approved the issuance and sale of the new bonds. No other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 26, 1962, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for the request, and the issues of fact or law, if any, raised by the application which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant, and proof of service (by affi-

davit, or, in case of an attorney-at-law, by certificate) filed or dispatched contemporaneously with the request. At any time after said date the application, as filed or as it may be amended, may be granted, as provided by Rule 23 of the general rules and regulations promulgated under the Act; or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof, or take such other action as it deems appropriate.

By the Commission.

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

[F.R. Doc. 62-2564; Filed, Mar. 15, 1962; 8:46 a.m.]

[File No. 70-4014]

PHILADELPHIA ELECTRIC POWER CO.

Notice of Proposed Issuance of Notes to Banks and Advances on Open Account to Subsidiary Company

MARCH 8, 1962.

Notice is hereby given that Philadelphia Electric Power Company ("Philadelphia Power"), 1000 Chestnut Street, Philadelphia 5, Pennsylvania, a registered holding company, an electric utility company, and also a subsidiary company of Philadelphia Electric Company, a company which is exempt as a holding company pursuant to Rule 2 promulgated under the Public Utility Holding Company Act of 1935 ("Act"), has filed an application-declaration and an amendment thereto with this Commission and has designated sections 6(a), 7, and 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

Philadelphia Power and its wholly owned subsidiary company, The Susquehanna Power Company ("Susquehanna"), are joint holders of a Federal License issued February 20, 1926, by the Federal Power Commission for a hydroelectric power development on the Susquehanna River known as the Conowingo Project ("project"). Philadelphia Power, a Pennsylvania corporation, owns that portion of the project located in Pennsylvania, and Susquehanna, a Maryland corporation, owns the portion located in Maryland. The project presently has installed seven hydroelectric generating units, each rated at 36,000 kilowatts capacity, and has provision for four additional units. All eleven of these units are or will be located in Maryland.

Philadelphia Power proposes to issue and to renew, from time to time, up to an aggregate of $20,000,000 of promissory notes, including $1,000,000 presently outstanding, to a group of banks. The notes will mature in nine months or less from their respective dates of execution, but no maturity date will be later than March 31, 1965. The notes will bear interest at the prime commercial rate (presently 4½% per annum) in effect at the time of each such borrowing and will be prepayable at any time, in full or in part, without premium.

Philadelphia Power proposes to use the proceeds of the proposed notes to banks to make concurrent interest bearing advances to Susquehanna on open account, as needed. The funds are to be used solely to finance, in part, the costs of completing the construction and installation of four additional turbo-generator units of 60,000 kilowatts each with appurtenant facilities at the project. The total cost of the proposed construction is estimated at $31,500,000. The interest to be charged Susquehanna by Philadelphia Power on the open account advances will be at the same rate or rates as charged by the lending banks on the proposed promissory notes.

Philadelphia Power states that the proposed $20,000,000 of notes will be issued to most or all of the following banks, in each case not to exceed the maximum amount indicated below:

	(*In thousands*)
Broad Street Trust Co	$1,400
Central-Penn National Bank	2,000
Fidelity-Philadelphia Trust Co	4,000
First Pennsylvania Banking & Trust Co	10,000
Girard Trust Corn Exchange Bank	6,000
Liberty Real Estate Bank & Trust Co	700
Montgomery County Bank & Trust Co	1,000
The Philadelphia National Bank	8,000
Provident Tradesmens Bank and Trust Co	5,000
	38,100

Philadelphia Power presently contemplates, subject to filing with and procuring the requisite approval of this Commission and other regulatory agencies, obtaining permanent financing in the aggregate amount of $31,500,000, beginning in late 1963. The permanent financing is to consist of $18,000,000 of 30-year bonds, $6,000,000 of 10-year serial notes, and $7,500,000 of common stock, and part of the proceeds is to be used to pay the proposed $20,000,000 of notes to banks.

The Pennsylvania Public Utility Commission has approved the proposed open account advances. Philadelphia Power expects to incur expenses of $5,100 in connection with the proposed transactions, including legal fees and expenses of $5,000.

Notice is further given that any interested person may, not later than March 27, 1962, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant-declarant, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. At any time after said date, the application-declaration, as amended or as further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

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

[F.R. Doc. 62-2565; Filed, Mar. 15, 1961; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 13, 1962.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 37594: *Cement from Omaha, Nebr., to WTL territory.* Filed by Western Trunk Line Committee, Agent (No. A-2229), for interested rail carriers. Rates on cement and related articles, in carloads, from Omaha, Nebr., to points in western trunk line territory.

Grounds for relief: Market competition.

Tariffs: Supplements 56 and 32 to Western Trunk Line Committee tariffs I.C.C. A-4308 and A-4309, respectively.

FSA No. 37595: *Caustic liquid soda from Evans City, Ala., to Gulfport, Miss.* Filed by O. W. South, Jr., Agent (No. A-4156), for interested rail carriers. Rates on sodium (soda), caustic, liquid, in tank-car loads, from Evans City, Ala., to Gulfport, Miss.

Grounds for relief: Market competition.

Tariff: Supplement 30 to Southern Freight Association tariff I.C.C. S-194.

FSA No. 37596: *Substituted service—NYNH&H for Whippet Motor Lines Corp.* Filed by The New York, New Haven, and Hartford Railroad Company (Richard Joyce Smith, William J. Kirk, Harry W. Dorigan, Trustees) (No. 228), jointly with Whippet Motor Lines Corp., for themselves and interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Harlem River, N.Y., on the one hand, and Boston, Mass., and New Haven, Conn., on the other; also between Boston, Mass., and New Haven, Conn., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

FSA No. 37597: *Class and commodity rates from and to Dundalk Marine Terminal, Md.* Filed by Traffic Executive Association-Eastern Railroads, Agent

(ER No. 2605), for interested rail carriers. Rates on property moving on class or commodity rates between Dundalk Marine Terminal (Baltimore) (Maryland Port Authority), Md., on the one hand, and other points in the United States, Canada and Alaska, on the other.

Grounds for relief: Rail competition and grouping.

Tariff: Pennsylvania Railroad Company tariff I.C.C. 3815.

FSA No. 37598; *Class and commodity rates from and to Dundalk Marine Terminal, Md.* Filed by Traffic Executive Association-Eastern Railroads, Agent (E.R. No. 2606), for interested rail carriers. Rates on property moving on class or commodity rates, between Dundalk Marine Terminal (Baltimore) (Maryland Port Authority), Md., on the one hand, and other points in the United States, Canada and Alaska, on the other.

Grounds for relief: Rail competition and grouping.

Tariff: Baltimore and Ohio Railroad Company tariff I.C.C. 24500 and Western Maryland Railway Company tariff I.C.C. 9220.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 62-2572; Filed, Mar. 15, 1962; 8:47 a.m.]

[Notice 608]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 13, 1962.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 6462. By order of March 8, 1962, the Transfer Board approved the transfer to C. C. Curth Moving & Storage Corp., Brooklyn, N.Y., of Certificate No. MC 41616 issued June 10, 1949, to Clarence C. Curth, Jr., doing business as L. Curth & Sons, Beth Page, N.Y., authorizing the transportation of household goods, over irregular routes, from New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., and those in New York, New Jersey, and Connecticut within 50 miles of New York, N.Y., to points in New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Pennsylvania, Delaware, Maryland, Maine, New Hampshire, Vermont, Kentucky, Missouri, Iowa, Illinois, Ohio, Michigan, North Carolina, South Carolina, Georgia, Florida, Virginia, West Virginia, Indiana, and the District of Columbia; from points in the above-specified destination territory to points in Connecticut, Massachusetts, Rhode Island, Delaware, and New Jersey, and those in New York, Pennsylvania, and Maryland within 225 miles of New York, N.Y., and return, with no transportation for compensation except as otherwise authorized to the above-specified origin points. Morris Honig, 150 Broadway, New York 38, N.Y., attorney for applicants.

No. MC-FC 64697. By order of March 8, 1962, the Transfer Board approved the transfer to M. L. Briscoe, doing business as Vick Truck Line, 708 S. McCarty, Eagle Lake, Tex., of the operating rights in Certificate No. MC 75613, issued July 9, 1959, to Mrs. Edith Duty and Robert Franklin Duty, a partnership, doing business as Vick Truck Line, Eagle Lake, Tex., authorizing the transportation, over a regular route, between Houston, Tex., and Eagle Lake, Tex.

No. MC-FC 64733. By order of March 9, 1962, the Transfer Board approved the transfer to Donald L. Shockey, doing business as Shockey Truck Line, Clinton, Iowa, of Certificate No. MC 2206, issued March 20, 1956, to C. G. Law, doing business as Law Truck Line, Clinton, Iowa, authorizing the transportation of: Hogs, feed, seed, fertilizer, farm machinery and parts, lumber, building materials, binder twine, hardware, fencing materials, farm supplies, tile, coal, livestock, petroleum products in containers, steel articles, fertilizer compounds and ingredients, grain and emigrant movables, from to or between specified points in Illinois, Iowa, and Wisconsin. William A. Landau, 1307 East Walnut Street, Des Moines, Iowa, applicants' representative.

No. MC-FC 64802. By order of March 8, 1962, the Transfer Board approved the transfer to Sun Motor Line, Inc., Oklahoma City, Okla., of a portion of Certificate No. MC 117766, issued February 7, 1961, to Sam Blair, doing business as R & S Brokerage Company, Albuquerque, N. Mex., authorizing the transportation of: Frozen fruits, frozen berries, and frozen vegetables, from Watsonville, Salinas, San Martin, San Jose, Santa Clara, Modesto, Fresco, Sanger, Patterson, and Los Angeles, Calif., to Wichita, Kans., and Oklahoma City, Okla. Rufus H. Lawson, P.O. Box 5114, Oklahoma City 7, Okla., attorney for applicants.

No. MC-FC 64837. By order of March 8, 1962, the Transfer Board approved the transfer to McComb Truck Line, Inc., Niles, Mich., of the operating rights in Certificate No. MC 118316, issued September 22, 1960, to Edgar McComb, doing business as McComb Truck Line, Niles, Mich., authorizing the transportation of bananas, from Miami and Tampa, Fla., to Louisville, Ky., Chicago, Ill., and points in Indiana. Blaine Buchanan, 1024 James Building, Chattanooga 2, Tenn., applicants' attorney.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 62-2573; Filed, Mar. 15, 1962; 8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Ackerman Mfg. Co., Ackerman, Miss.; effective 3-1-62 to 2-28-63. (men's cotton work shirts).

Charldon Mfg. Co., East Main Street, Charleston, Miss.; effective 2-26-62 to 2-25-63 (boys' shirts).

Eloesser Heynemann Co., 1161 Mission Street, San Francisco, Calif.; effective 2-26-62 to 2-25-63 (overalls and work pants).

Finesilver Mfg. Co., 816 Camaron Street, San Antonio, Tex.; effective 3-2-62 to 3-1-63 (men's and boys' work pants, shirts, and denim dungarees).

Greer Shirt Corp., Greer, S.C.; effective 2-26-62 to 2-25-63 (boys' and men's sport shirts).

Hanover Shirt Co., Inc., Ashland, Va.; effective 2-21-62 to 2-20-63 (sport shirts).

Kinston Mfg. Co., Inc., Kinston, Ala.; effective 2-20-62 to 2-19-63 (men's and boys' outerwear and boys' pants).

Lillington Garment Co., Inc., Lillington, N.C.; effective 3-7-62 to 3-6-63 (sport and utility shirts).

Luzerne Outerwear Mfg. Corp., 87-93 Canal Street, Shickshinny, Pa.; effective 2-27-62 to 2-26-63 (men's and boys' wool and vinyl outerwear jackets).

Reidbord Brothers Co., Blairton, Washington Township, Westmoreland County, Pa.; effective 3-1-62 to 2-28-63 (boys' and men's trousers).

H. B. Spoont Co., 12 East Coal Street, Shenandoah, Pa.; effective 2-26-62 to 2-25-63 (car coats and rain coats).

The Watson-Scott Co., Thomasville, Ga.; effective 3-2-62 to 3-1-63 (men's industrial uniforms).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration

dates and the number of learners authorized are indicated.

Covco Garment Co., Corner Iris Drive and Covco Street, Sparta, Tenn.; effective 2-22-62 to 2-21-63; 10 learners (cotton coveralls, garments).

Lark Dress Co., Fifth and Walnut Streets, Shamokin, Pa.; effective 3-1-62 to 2-28-63; 10 learners (women's and misses' dresses).

Mount Pleasant Garment Corp., First Avenue, Mount Pleasant, Tenn.; effective 2-24-62 to 2-23-63; 10 learners (boys' sport shirts).

Yori Joy Sportswear, Inc., Windber, Pa.; effective 2-19-62 to 2-18-63; 10 learners (children's jackets and snowsuits).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Beebe Industries, Inc., South Holly Street, Beebe, Ark.; effective 2-21-62 to 8-20-62; 130 learners (ladies' and children's pants and shorts).

Florence Fashions, Youngsville, N.C.; effective 2-26-62 to 6-19-62; 35 learners (ladies' dresses) (supplemental certificate).

Levi Strauss & Co., Warsaw, Va.; effective 2-19-62 to 8-18-62; 75 learners (cotton work pants).

Lock Haven Garment Co., 921 Third Street, Lock Haven, Pa.; effective 2-26-62 to 8-25-62; 30 learners (ladies' blouses).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

C. W. Anderson Hosiery Co., East Carolina Avenue, Clinton, S.C.; effective 2-21-62 to 8-20-62; 10 learners for plant expansion purposes (seamless and full-fashioned).

Princeton Hosiery Mills, Inc., Washington Street, Princeton, Ky.; effective 2-20-62 to 2-19-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Lawrence Knitting Mills and Charlotte Knitting Mills, 300 West 24th Street, Charlotte, N.C.; effective 2-21-62 to 2-20-63; five learners for normal labor turnover purposes (knitted cotton fabrics).

West Knitting Corp., Wadesboro, N.C.; effective 3-8-62 to 3-7-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' cotton knit underwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Soboroff Sons Co., 2100 Main Street, Blytheville, Ark.; effective 2-26-62 to 8-25-62; 50 learners for plant expansion purposes in the occupation of sewing machine operator, for a learning period of 240 hours at the rate of $1.00 an hour (men's and boys' caps).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Nutritional Specialties, Inc., Arecibo, P.R.; effective 1-11-62 to 7-10-62; eight learners for plant expansion purposes, in the occupations of tableting machine operator, mixing machine operator, granulating machine operator, coating machine operator and die setter, each for a learning period of 240 hours at the rate of 67 cents an hour (dietary food supplement in tablet form).

Nutritional Specialties, Inc., Arecibo, P.R.; effective 1-11-62 to 1-10-63; five learners for normal labor turnover purposes in the occupations of tableting machine operator, mixing machine operator, granulating machine operator, coating machine operator and die setter, each for a learning period of 240 hours at the rate of 67 cents an hour (dietary food supplement in tablet form).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 16th day of March 1962.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 62-2582; Filed, Mar. 15, 1962; 8:48 a.m.]

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Atwood Inc., Troutman, N.C.; effective 2-8-62 to 2-7-63 (work and sport shirts).

City Shirt Co., 19-21 West Vine Street, Mahanoy City, Pa.; effective 2-1-62 to 1-31-63 (men's sport, uniform and dress shirts).

Elder Manufacturing Co., McLeansboro, Ill.; effective 1-25-62 to 1-24-63 (men's and boys' shirts).

W. Koury Co., Inc., 633 Chatham Street, Sanford, N.C.; effective 2-3-62 to 2-2-63 (men's and boys' work and sport pants and shirts).

Monleigh Garment Co., Yadkinville Road, Mocksville, N.C.; effective 2-6-62 to 2-5-63 (women's lingerie).

Monticello Manufacturing, Inc., Warren Street, Monticello, Ga.; effective 2-10-62 to 2-9-63 (men's and boys' casual pants).

Solomon Bros. Co., Thomasville, Ala.; effective 1-26-62 to 1-25-63 (men's sport shirts).

Levi Strauss and Co., Route 3, Warsaw, Va.; effective 1-30-62 to 1-29-63 (men's cotton work pants).

I. Taitel and Son, Drew, Miss.; effective 1-27-62 to 1-26-63 (men's and boys' jackets).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Belfast Manufacturing Co., 64 Anderson Street, Belfast, Maine; effective 2-1-62 to 1-31-63; 10 learners (men's trousers).

Clayton Garment Co., Clayton, Ala.; effective 2-10-62 to 2-9-63; 10 learners (men's sport shirts and ladies' blouses).

Dickson City Garment Corp., Bowman and Dewey Streets, Dickson City, Pa.; effective 2-16-62 to 2-15-63; 10 learners (children's dresses).

Solomon Bros. Co., Thomaston, Ala.; effective 1-23-62 to 1-22-63; 10 learners (men's sport shirts).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Charleston Manufacturing Co., Inc., Stark Industrial Park, Charleston Heights, S.C.; effective 1-25-62 to 7-24-62; 35 learners (ladies' dresses).

T. S. Lankford and Sons, 101 to 141 Walnut Street, Abilene, Tex.; effective 1-27-62 to 7-26-62; 50 learners (work clothing).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.65, as amended).

The Schafer Co., Inc., 101-117 North First Street, Decatur, Ind.; effective 1-29-62 to 3-7-62; 10 learners for normal labor turnover purposes (work, leather and combination leather and fabric gloves) (replacement certificate).

Wells Lamont Corp., Waynesboro, Miss.; effective 2-1-62 to 1-31-63; 10 percent of the total number of machine stitchers for normal labor turnover purposes (leather palm work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

Ballet Hosiery Co., Wadesboro, N.C.; effective 1-23-62 to 7-22-62; 50 learners for plant expansion purposes (seamless).

Kayser-Roth Hosiery Co., Inc., Burlington, N.C.; effective 2-14-62 to 2-13-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned).

Singer Hosiery Mills, Inc., 710 Jacob Street, Thomasville, N.C.; effective 1-25-62 to 1-24-63; five learners for normal labor turnover purposes (seamless).

Van Raalte Co., Inc., Blue Ridge, Ga.; effective 1-25-62 to 1-24-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Chadbourn Textiles, Inc., Chadbourn, N.C.; effective 1–23–62 to 1–22–63; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' knit undershirts and placket knit sport shirts).

Charlotte Finishing Co., York, S.C.; effective 1–29–62 to 1–28–63; five learners for normal labor turnover purposes (sweaters).

Mullins Textile Mills, Inc., 301 Cypress Street, Mullins, S.C.; effective 1–30–62 to 1–29–63; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' knitted underwear and outerwear).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 15th day of February 1962.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 62–2583; Filed, Mar. 15, 1962; 8:48 a.m.]

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