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TITLE 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

CROSS REFERENCE: A listing of current public laws approved by the President appears at the end of this issue.

TITLE 7—AGRICULTURE

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

PART 964—DRIED FIGS PRODUCED IN CALIFORNIA

APPROVAL OF BUDGET OF EXPENSES OF DRIED FIG ADMINISTRATIVE COMMITTEE FOR 1957–58 CROP YEAR AND FIXING RATE OF ASSESSMENT FOR SUCH CROP YEAR

Pursuant to Marketing Agreement No. 123, as amended, and Order No. 64, as amended (7 CFR, Part 964; 21 F. R. 7649), regulating the handling of dried figs produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of recommendations and information furnished by the Dried Fig Administrative Committee (hereinafter referred to as the "committee") and other available information, it is hereby found, and determined, and, therefore, it is hereby ordered, that the budget of expenses of the committee and the rate of assessment for the crop year which began on August 1, 1957 shall be as follows:

§ 964.302 *Budget of expenses of the Dried Fig Administrative Committee and rate of assessment for the 1957–58 crop year*—(a) *Budget of expenses.* Expenses in the amount of $26,260 are reasonable and are likely to be incurred by the committee for its functions and maintenance for the crop year which began on August 1, 1957 and will end on July 31, 1958.

(b) *Rate of assessment.* Each handler shall pay to the committee, in accordance with the provisions of § 964.71 (a) of the marketing agreement, as amended, and order, as amended, an assessment of $1.30 for each ton of salable tonnage dried figs handled by him as the first handler thereof during the crop year which began on August 1, 1957 and will end on July 31, 1958. Such assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

For the purpose of the foregoing action, "salable tonnage dried figs" means and includes all natural condition dried figs acquired by a handler during the crop year which began on August 1, 1957, pursuant to the applicable provisions of the aforesaid marketing agreement, as amended, and order, as amended.

It is hereby found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in public rule-making (see section 4 (a) of the Administrative Procedure Act; 5 U. S. C. 1001 et seq.), and it is further found and determined that good cause exists for not postponing the effective date of this order for 30 days, or any lesser period, after its publication in the FEDERAL REGISTER (see section 4 (c) of the Administrative Procedure Act, supra) in that: (1) Deliveries of 1957 crop dried figs from producers and dehydrators to handlers have already commenced; (2) the committee must be enabled to obtain assessment revenue promptly to defray expenses of administering the program; and (3) this action will require no advance preparation by dried fig handlers. Accordingly, it is imperative that this action be made effective as soon as possible and not later than the date on which this order is published in the FEDERAL REGISTER.

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

Dated September 10, 1957, to become effective upon publication in the FEDERAL REGISTER.

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

[F. R. Doc. 57-7545; Filed, Sept. 12, 1957; 8:56 a. m.]

CONTENTS

THE CONGRESS

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

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

CODIFICATION GUIDE—Con.

CODIFICATION GUIDE—Con.

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 9]

PART 514—TECHNICAL STANDARD ORDERS FOR AIRCRAFT MATERIALS, PARTS, PROCESSES, AND APPLIANCES

FLIGHT AND POWERPLANT INSTRUMENTS

Minimum performance standards for instruments which specifically are required to be approved for use in civil aircraft of the United States are defined in the new regulations §§ 514.42 through 514.48 (TSO–C43 through TSO–C49).

Sections 514.42 through 514.48 appeared as notices of proposed rule making in 22 F. R. 4478–4479 on June 26, 1957. All interested persons have been afforded an opportunity to submit written views, data or argument. No comments were received.

Sections 514.42 through 514.48 are added under Subpart B of this part to read as follows:

§ 514.42 *Temperature indicators—TSO–C43*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for temperature indicators which specifically are required to be approved for use in civil aircraft of the United States. New models of temperature indicators manufactured for installation in civil aircraft on or after October 15, 1957, shall meet the standards set forth in SAE Aeronautical Standard AS–413A, "Temperature Indicator," dated December 15, 1954.[1] Temperature indicators approved by the Civil Aeronautics Administration prior to October 15, 1957, may continue to be manufactured under the provisions of their original approval.

(b) *Marking.* In lieu of the weight specified in paragraph (c) of § 514.3, the rating shall be shown.

(c) *Data requirements.* One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Aircraft Engineering Division, Civil Aeronautics Administration, Washington 25, D. C., with the statement of conformance.

(d) *Effective date.* October 15, 1957.

§ 514.43 *Fuel flow meters—TSO–C44*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for fuel flow meters which specifically are required to be approved for use in civil aircraft of the United States. New models of fuel flow meters manufactured for installation in civil aircraft on or after October 15, 1957, shall meet the standards set forth in SAE Aeronautical Standard AS–407A, "Fuel Flow Meters," dated December 14, 1954.[1] Fuel flow meters approved by the Civil Aeronautics Administration prior to October 15, 1957, may continue to be manufactured under the provisions of their original approval.

(b) *Marking.* In lieu of the weight specified in paragraph (c) of § 514.3, the range and rating shall be shown.

(c) *Data requirements.* One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Aircraft Engineering Division, Civil Aeronautics Administration, Washington 25, D. C., with the statement of conformance.

(d) *Effective date.* October 15, 1957.

§ 514.44 *Manifold pressure indicating instruments—TSO–C45*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for manifold pressure indicating instruments which specifically are required to be approved for use in civil aircraft of the United States. New models of manifold pressure indicating instruments manufactured for installation in civil aircraft on or after October 15, 1957, shall meet the standards set forth in SAE Aeronautical Standard AS–411, "Manifold Pressure Indicating Instruments," dated November 1, 1948.[1] Manifold pressure indicating instruments approved by the Civil Aeronautics Administration prior to October 15, 1957, may continue to be manufactured under the provisions of their original approval.

(b) *Marking.* In lieu of the weight specified in paragraph (c) of § 514.3, the range and rating shall be shown.

(c) *Data requirements.* One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Aircraft Engineering Division, Civil Aeronautics Administration, Washington 25, D. C., with the statement of conformance.

(d) *Effective date.* October 15, 1957.

§ 514.45 *Maximum allowable airspeed indicators—TSO–C46*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for maximum allowable airspeed indicators which specifically are required to be approved for use in civil aircraft of the United States. New models of maximum allowable airspeed indicators manufactured for installation in civil aircraft on or after October 15, 1957, shall meet the standards set forth in SAE Aeronautical Standard AS–418, "Maximum Allowable Airspeed Indicators," dated December 15, 1956.[1] Maximum allowable airspeed indicators approved by the Civil Aeronautics Administration prior to October 15, 1957, may continue to be manufactured under the provisions of the original approval.

[1] Copies may be obtained from the Society of Automotive Engineers, 485 Lexington Avenue, New York 17, New York.

(b) *Marking.* In lieu of the weight specified in paragraph (c) of § 514.3, the range shall be shown.

(c) *Data requirements.* One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Aircraft Engineering Division, Civil Aeronautics Administration, Washington 25, D. C., with the statement of conformance.

(d) *Effective date.* October 15, 1957.

§ 514.46 *Pressure instruments—fuel, oil, and hydraulic—TSO–C47*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for pressure instruments—fuel, oil and hydraulic—which specifically are required to be approved for use in civil aircraft of the United States. New models of pressure indicators—fuel, oil, and hydraulic—manufactured for installation in civil aircraft on or after October 15, 1957, shall meet the standards set forth in SAE Aeronautical Standard AS–408A, "Pressure Instruments—Fuel, Oil, and Hydraulic," dated December 15, 1954.[1] Pressure instruments—fuel, oil and hydraulic—approved by the Civil Aeronautics Administration prior to October 15, 1957, may continue to be manufactured under the provisions of their original approval.

(b) *Marking.* In lieu of the weight specified in paragraph (c) of § 514.3, the rating and range shall be shown.

(c) *Data requirements.* One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Aircraft Engineering Division, Civil Aeronautics Administration, Washington 25, D. C., with the statement of conformance.

(d) *Effective date.* October 15, 1957.

§ 514.47 *Carbon monoxide detector instruments—TSO–C48*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for carbon monoxide detector instruments which specifically are required to be approved for use in civil aircraft of the United States. New models of carbon monoxide detector instruments manufactured for installation in civil aircraft on or after October 15, 1957, shall meet the standards set forth in SAE Aeronautical Standard AS–412A, "Carbon Monoxide Detector Instruments," dated December 15, 1956.[1] Carbon monoxide detector instruments approved by the Civil Aeronautics Administration prior to October 15, 1957, may continue to be manufactured under the provisions of their original approval.

(b) *Marking.* In lieu of the weight specified in paragraph (c) of § 514.3, the rating shall be shown.

[1] Copies may be obtained from the Society of Automotive Engineers, 485 Lexington Avenue, New York 17, New York.

(c) *Data requirements.* One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Aircraft Engineering Division, Civil Aeronautics Administration, Washington 25, D. C., with the statement of conformance.

(d) *Effective date.* October 15, 1957.

§ 514.48 *Electric tachometers: magnetic drag (indicator and generator):—TSO–C49*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for electric tachometers: magnetic drag (indicator and generator) which specifically are required to be approved for use in civil aircraft of the United States. New models of electric tachometers: magnetic drag (indicator and generators) manufactured for installation in civil aircraft on or after October 15, 1957, shall meet the standards set forth in SAE Aeronautical Standard AS–404A, "Electric Tachometer: Magnetic Drag (indicator and generator)," dated December 15, 1954.[1] Electric tachometers: magnetic drag (indicator and generator) approved by the Civil Aeronautics Administration prior to October 15, 1957, may continue to be manufactured under the provisions of their original approval.

(b) *Marking.* In lieu of the weight specified in paragraph (c) of § 514.3, the range shall be shown.

(c) *Data requirements.* One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Aircraft Engineering Division, Civil Aeronautics Administration, Washington 25, D. C., with the statement of conformance.

(d) *Effective date.* October 15, 1957.

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

[SEAL] WILLIAM B. DAVIS,
Acting Administrator of Civil Aeronautics.

SEPTEMBER 6, 1957.

[F. R. Doc. 57–7492; Filed, Sept. 12, 1957; 8:45 a. m.]

[Amdt. 207]

PART 608—RESTRICTED AREAS

ALTERATIONS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure and effective date, provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. Section 608.39, the White Sands Restricted Area Number 1 (formerly called White Sands Proving Grounds), New Mexico, area (R–209 formerly D–209), amended October 31, 1951 in 16 F. R. 11066, is redesignated as follows:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
White Sands, N. Mex. Restricted Area No. 1 (R–209) (Roswell, Albuquerque).	"Beginning at latitude 34°15'45", longitude 106°40'30"; thence to latitude 34°17'00", longitude 106°12'00"; thence to latitude 34°17'00", longitude 106°04'00"; thence to latitude 32°50'00", longitude 106°04'00"; thence to latitude 32°36'00", longitude 106°06'00"; thence to latitude 32°25'00", longitude 106°06'00"; thence to latitude 32°00'00", longitude 106°21'00"; thence to latitude 32°00'00"; longitude 106°34'00"; thence to latitude 32°18'00", longitude 106°34'00"; thence to latitude 32°18'00", longitude 106°39'00"; thence to latitude 33°13'00", longitude 106°52'00"; thence to point of beginning".	Unlimited	Continuous	Holloman AFB, Alamogordo N. Mex.

2. Section 608.39, the White Sands, New Mexico, Restricted Area Number 2 (R–521), is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
White Sands, N. Mex. Restricted Area No. 2 (R–521) (Rosewell, Albuquerque).	"That airspace West of White Sands Restricted Area No. 1 (R–209), described above, which is bounded by an arc of 33 and one-half statute miles radius centered at North latitude 33°46'45", West longitude 106°46'00".".	From 20,000 feet mean sea level to unlimited.	Unlimited, except at such time as released to ARTC Center by Controlling Agency.	Holloman AFB, Alamogordo, N. Mex.

3. Section 608.39, the White Sands, New Mexico, Restricted Area Number 3 (R–522), is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
White Sands, N. Mex. Restricted Area No. 3 (R–522) (Roswell, Albuquerque).	"Beginning at latitude 34°17′00″, longitude 106°04′00″; thence to latitude 34°17′00″, longitude 105°51′00″; thence to latitude 33°57′00″, longitude 105°27′00″; thence to latitude 32°45′00″, longitude 105°27′00″; thence to latitude 32°45′00″, longitude 105°59′00″; thence to latitude 32°36′00″, longitude 106°00′00″; thence to latitude 32°36′00″, longitude 106°06′00″; thence to latitude 32°50′00″, longitude 106°04′00″; thence to point of beginning."	From 16,000 feet mean sea level to unlimited.	Unlimited, except at such time as released to Albuquerque ARTC Center by Controlling Agency.	Holloman AFB, Alamogordo, N. Mex.

4. Section 608.62, the Dillingham, Territory of Hawaii, area (R–333) formerly Mokuleia, Territory of Hawaii, area amended April 27, 1956, in 21 F. R. 2719, is redesignated as follows:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Dillingham, territory of Hawaii Restricted Area (R–333) (Hawaiian Islands).	"Beginning at latitude 21°34′45″ North, longitude 158°17′20″ West; thence to latitude 21°35′20″ North, longitude 158°19′40″ West; thence North and East along a line 3 statute miles from the shoreline of Oahu to latitude 21°37′50″ North, longitude 158°08′50″ West; thence to latitude 21°35′30″ North, longitude 158°11′30″ West; thence to latitude 21°35′15″ North, longitude 158°14′30″ West; thence to point of beginning".	40,000 feet mean sea level.	As published in NOTAMS (Firing Notices). During the hours 0700–1700.	Commanding General, USARPAC.

5. Section 608.62, the Kaena Point, Territory of Hawaii, area (R–317) amended October 31, 1951 in 16 F. R. 11066, is rescinded.

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

This amendment shall become effective on October 24, 1957.

[SEAL] WILLIAM B. DAVIS,
Acting Administrator of Civil Aeronautics.

SEPTEMBER 6, 1957.

[F. R. Doc. 57–7491; Filed, Sept. 12, 1957; 8:45 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs,

[T. D. 54432]

PART 20—DISPOSITION OF UNCLAIMED AND ABANDONED MERCHANDISE

SALE

In view of the limited transfer to collectors of customs of the function of determining the values of unclaimed merchandise abandoned to the Government (Customs Delegation Order No. 12, T. D. 54430), § 20.5 of the Customs Regulations is amended as follows:

Paragraph (b) is amended by inserting a footnote reference "5a" following "amended" in the first sentence, and a new footnote is appended, reading:

[5a] The function of determining values of unclaimed and abandoned merchandise in any case where the aggregate appraised value of the lot will not exceed $250 has been transferred from the appraiser to the collector. (T. D. 54430.)

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: September 4, 1957.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 57–7506; Filed, Sept. 12, 1957; 8:48 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T. D. 6252]

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

ITEMS NOT DEDUCTIBLE

On May 23, 1957, a notice of proposed rule making regarding the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except as otherwise provided, under section 268, relating to the sale of land with unharvested crop, section 270, relating to limitation on deductions allowable to individuals in certain cases, and section 271, relating to debts owed by political parties, etc., was published in the FEDERAL REGISTER (22 F. R. 3627). After consideration of all such relevant matter as was presented by interested parties regarding the rules proposed, the following regulations are hereby adopted:

ITEMS NOT DEDUCTIBLE

Sec.
1.268 Statutory provisions; sale of land with unharvested crop.
1.268–1 Items attributable to an unharvested crop sold with the land.
1.270 Statutory provisions; limitation on deductions allowable to individuals in certain cases.
1.270–1 Limitation on deductions allowable to individuals in certain cases.
1.271 Statutory provisions; debts owed by political parties, etc.

AUTHORITY: §§ 1.268 to 1.271 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

§ 1.268 *Statutory provisions; sale of land with unharvested crop.*

SEC. 268. *Sale of land with unharvested crop.* Where an unharvested crop sold by the taxpayer is considered under the provisions of section 1231 as "property used in the trade or business", in computing taxable income no deduction (whether or not for the taxable year of the sale and whether for expenses, depreciation, or otherwise) attributable to the production of such crop shall be allowed.

§ 1.268–1 *Items attributable to an unharvested crop sold with the land.* In computing taxable income no deduction shall be allowed in respect of items attributable to the production of an unharvested crop which is sold, exchanged, or involuntarily converted with the land and which is considered as property used in the trade or business under section 1231 (b) (4). Such items shall be so treated whether or not the taxable year involved is that of the sale, exchange, or conversion of such crop and whether they are for expenses, depreciation, or otherwise. If the taxable year involved is not that of the sale, exchange, or conversion of such crop, a recomputation of the tax liability for such year shall be made; such recomputation should be in the form of an "amended return" if necessary. For the adjustments to basis as a result of such disallowance, see section 1016 (a) (11) and the regulations thereunder.

§ 1.270 *Statutory provisions; limitation on deductions allowable to individuals in certain cases.*

SEC. 270. *Limitation on deductions allowable to individuals in certain cases*—(a) *Recomputation of taxable income.* If the deductions allowed by this chapter or the corresponding provisions of prior revenue laws (other than specially treated deductions, as defined in subsection (b)) allowable to an individual (except for the provisions of this section or the corresponding provisions of prior revenue laws) and attributable to a trade or business carried on by him for 5 consecutive taxable years have, in each of such years (including at least one year to which this subtitle applies), exceeded by more than $50,000 the gross income derived from such trade or business, the taxable income (computed under section 63 or the corresponding provisions of prior revenue laws) of such individual for each of such years shall be recomputed. For the purpose of such recomputation in the case of any such taxable year, such deductions shall be allowed only to the extent of $50,000 plus the gross income attributable to such trade or business, except that the net operating loss deduction, to the extent attributable to such trade or business, shall not be allowed.

(b) *Specially treated deductions.* For the purpose of subsection (a) the specially treated deductions shall be taxes, interest, casualty and abandonment losses connected with a trade or business deductible under section 165 (c) (1), losses and expenses of

the trade or business of farming which are directly attributable to drought, the net operating loss deduction allowed by section 172, and expenditures as to which taxpayers are given the option, under law or regulations, either (1) to deduct as expenses when incurred or (2) to defer or capitalize.

(c) *Redetermination of tax.* On the basis of the taxable income computed under the provisions of subsection (a) for each of the 5 consecutive taxable years specified in such subsection, the tax imposed by this subtitle or the corresponding provisions of prior revenue laws shall be redetermined for each such taxable year. If for any such taxable year assessment of a deficiency is prevented (except for the provisions of section 1311 and following) by the operation of any law or rule of law (other than section 7122, relating to compromises), any increase in the tax previously determined for such taxable year shall be considered a deficiency for purposes of this section. For purposes of this section, the term "tax previously determined" shall have the meaning assigned to such term by section 1314 (a) (1).

(d) *Extension of statute of limitations.* Notwithstanding any law or rule of law (other than section 7122, relating to compromises), any amount determined as a deficiency under subsection (c), or which would be so determined if assessment were prevented in the manner described in subsection (c), with respect to any taxable year may be assessed as if on the date of the expiration of the time prescribed by law for the assessment of a deficiency for the fifth taxable year of the 5 consecutive taxable years specified in subsection (a), 1 year remained before the expiration of the period of limitation upon assessment for any such taxable year.

§ 1.270–1 *Limitation on deductions allowable to individuals in certain cases*—(a) *Recomputation of taxable income.* (1) Under certain circumstances, section 270 limits the deductions (other than certain deductions described in subsection (b) thereof) attributable to a trade or business carried on by an individual which are otherwise allowable to such individual under the provisions of chapter 1 of the Internal Revenue Code of 1954 or the corresponding provisions of prior revenue laws. If, in each of five consecutive taxable years (including at least one taxable year beginning after December 31, 1953, and ending after August 16, 1954), the deductions attributable to a trade or business carried on by an individual (other than the specially treated deductions described in paragraph (b) of this section) exceed the gross income derived from such trade or business by more than $50,000, the taxable income computed under section 63 (or the net income computed under the corresponding provisions of prior revenue laws) of such individual shall be recomputed for each of such taxable years.

(2) In recomputing the taxable income (or the net income, in the case of taxable years which are otherwise subject to the Internal Revenue Code of 1939) for each of the five taxable years, the deductions (other than the specially treated deductions described in paragraph (b) of this section with the exception of the net operating loss deduction) attributable to the trade or business carried on by the individual shall be allowed only to the extent of (i) the gross income derived from such trade or business, plus (ii) $50,000. The specially treated deductions described in paragraph (b) of this section (other than the net operating loss deduction) shall each be allowed in full. The net operating loss deduction, to the extent attributable to such trade or business, shall be disallowed in its entirety. Thus, a carryover or a carryback of a net operating loss so attributable, either from a year within the period of five consecutive taxable years or from a taxable year outside of such period, shall be ignored in making the recomputation of taxable income or net income, as the case may be.

(3) The limitations on deductions provided by section 270 are also applicable in determining under section 172, or the corresponding provisions of prior revenue laws, the amount of any net operating loss carryover or carryback from any year which falls within the provisions of section 270 to any year which does not fall within such provisions. Also, in determining under section 172, or the corresponding provisions of prior revenue laws, the amount of any net operating loss carryover from a year which falls within the provisions of section 270 to a year which does not fall within such provisions, the amount of net operating loss is to be reduced by the taxable income or net income, as the case may be (computed as provided in § 1.172–5, or 26 CFR, 1949 Ed. 39.122–4 (c), as the case may be and, in the case of any taxable year which falls within the provisions of section 270, determined after the application of section 270), of any taxable year preceding or succeeding the taxable year of the net operating loss to which such loss must first be carried back or carried over under the provisions of section 172 (b), or the corresponding provisions of prior revenue laws, even though the net operating loss deduction is not an allowable deduction for such preceding or succeeding taxable year.

(4) If an individual carries on several trades or businesses, the deductions attributable to such trades or businesses and the gross income derived therefrom shall not be aggregated in determining whether the deductions (other than the specially treated deductions) exceed the gross income derived from such trades or businesses by more than $50,000 in any taxable year. For the purposes of section 270, each trade or business shall be considered separately. However, where a particular business of an individual is conducted in one or more forms such as a partnership, joint venture, or individual proprietorship, the individual's share of the profits and losses from each business unit must be aggregated to determine the applicability of section 270. See § 1.702–1 (a) (8) (ii) and (b), relating to applicability of section 270 to a partner. Where it is established that for tax purposes a husband and wife are partners in the same trade or business or that each is participating independently of the other in the same trade or business with his and her own money, the husband's gross income and deductions from that trade or business shall be considered separately from the wife's gross income and deductions from that trade or business even though they file a joint return. Where a taxpayer is engaged in a trade or business in a community property State under circumstances such that the income therefrom is considered to be community income, the taxpayer and his spouse are treated for purposes of section 270 as two individuals engaged separately in the same trade or business and the gross income and deductions attributable to the trade or business are allocated one-half to the taxpayer and one-half to the spouse. Where several business activities emanate from a single commodity, such as oil or gas or a tract of land, it does not necessarily follow that such activities are one business for the purposes of section 270. However, in order to be treated separately, it must be established that such business activities are actually conducted separately and are not closely interrelated with each other. For the purposes of section 270, the trade or business carried on by an individual must be the same in each of the five consecutive years in which the deductions (other than the specially treated deductions) exceed the gross income derived from such trade or business by more than $50,000.

(5) For the purposes of section 270, a taxable year may be part of two or more periods of five consecutive taxable years. Thus, if the deductions (other than the specially treated deductions) attributable to a trade or business carried on by an individual exceed the gross income therefrom by more than $50,000 for each of six consecutive taxable years, the fifth year of such six consecutive taxable years shall be considered to be a part both of a five-year period beginning with the first and ending with the fifth taxable year and of a five-year period beginning with the second and ending with the sixth taxable year.

(6) For the purposes of section 270, a short taxable year required to effect a change in accounting period constitutes a taxable year. In determining the applicability of section 270 in the case of a short taxable year, items of income and deduction are not annualized.

(b) *Specially treated deductions.* (1) For the purposes of section 270 and paragraph (a) of this section, the specially treated deductions are:

(i) Taxes,

(ii) Interest,

(iii) Casualty and abandonment losses connected with a trade or business deductible under section 165 (c) (1), or the corresponding provisions of prior revenue laws,

(iv) Losses and expenses of the trade or business of farming which are directly attributable to drought,

(v) The net operating loss deduction allowed by section 172, or the corresponding provisions of prior revenue laws, and

(vi) Expenditures as to which a taxpayer is given the option, under law or regulations, either (*a*) to deduct as expenses when incurred, or (*b*) to defer or capitalize.

(2) For the purpose of subparagraph (1) (iv) of this paragraph, an individual is engaged in the "trade or business of farming" if he cultivates, operates, or manages a farm for gain or profit, either as owner or tenant. An individual who receives a rental (either in cash or in

kind) which is based upon farm production is engaged in the trade or business of farming. However, an individual who receives a fixed rental (without reference to production) is engaged in the trade or business of farming only if he participates to a material extent in the operation or management of the farm. An individual engaged in forestry or the growing of timber is not thereby engaged in the trade or business of farming. An individual cultivating or operating a farm for recreation or pleasure rather than a profit is not engaged in the trade or business of farming. The term "farm" is used in its ordinarily accepted sense and includes stock, dairy, poultry, fruit, crop, and truck farms, and also plantations, ranches, ranges, and orchards. An individual is engaged in the trade or business of farming if he is a member of a partnership engaged in the trade or business of farming.

(3) In order for losses and expenses of the trade or business of farming to qualify as specially treated deductions under subparagraph (1) (iv) of this paragraph such losses and expenses must be directly attributable to drought conditions and not to other causes such as faulty management or unfavorable market conditions. In general, the following are the types of losses and expenses which, if otherwise deductible, may qualify as specially treated deductions under subparagraph (1) (iv) of of this paragraph:

(i) Losses for damages to or destruction of property as a result of drought conditions, if such property is used in the trade or business of farming or is purchased for resale in the trade or business of farming;

(ii) Expenses directly related to raising crops or livestock which are destroyed or damaged by drought. Included in this category are, for example, payments for labor, fertilizer, and feed used in raising such crops or livestock. If such crops or livestock to which the expenditures relate are only partially destroyed or damaged by drought then only a proportionate part of the expenditures is regarded as specially treated deductions; and

(iii) Expenses which would not have been incurred in the absence of drought conditions, such as expenses for procuring pasture or additional supplies of water or feed.

(4) The expenditures referred to in subparagraph (1) (vi) of this paragraph include, but are not limited to, intangible drilling and development costs in the case of oil and gas wells as provided in section 263 (c) and the regulations thereunder, and expenditures for the development of a mine or other natural deposit (other than an oil or gas well) as provided in section 616 and the regulations thereunder.

(5) The provisions of section 270 (b) do not operate to make an expenditure a deductible item if it is not otherwise deductible under the law applicable to the particular year in which it was incurred. Thus, for example, if it is necessary, pursuant to the provisions of section 270, to recompute the taxable or net income of an individual for the taxable years 1950 through 1954, the individual in making the recomputation may not deduct expenditures paid or incurred in the years 1950 through 1953 which must be capitalized under the law applicable to those years, even though the expenditures are deductible under the Internal Revenue Code of 1954.

(c) *Applicability to taxable years otherwise subject to the Internal Revenue Code of 1939.* The net income of a taxable year otherwise subject to the Internal Revenue Code of 1939 shall be recomputed pursuant to section 270 if (i) such taxable year is included in a period of five consecutive taxable years which includes at least one taxable year beginning after December 31, 1953, and ending after August 16, 1954, and (ii) the deductions (other than the specially treated deductions specified in section 270 (b)) for each taxable year in such five-year period exceed the $50,000 limitation specified in section 270. As described in paragraph (a) (5) of this section, a taxable year may be part of two or more periods of five consecutive taxable years. If a particular taxable year is part of two periods of five consecutive taxable years, one meeting the requirements for recomputation pursuant to section 130 of the Internal Revenue Code of 1939 and the other meeting the requirements for recomputation pursuant to section 270 of the Internal Revenue Code of 1954, then the recomputation for such taxable year shall be made pursuant to section 270. For example, if a calendar year taxpayer sustains a loss from a trade or business for each of the years 1949 through 1954, the years 1950, 1951, 1952, and 1953 may be a part of two such periods of five consecutive taxable years. If, however, a taxable year is part of a period of five consecutive taxable years which meets the requirements for recomputation pursuant to section 130 of the Internal Revenue Code of 1939, but is not part of a period which meets the requirements for recomputation pursuant to section 270, then a recomputation of net income for such taxable year must be made pursuant to section 130.

(d) *Redetermination of tax.* The tax imposed by chapter 1 of the Internal Revenue Code of 1954, or by the corresponding provisions of prior revenue laws, for each of the five consecutive taxable years specified in paragraph (a) of this section shall be redetermined upon the basis of the taxable income or net income of the individual, as the case may be, recomputed in the manner described in paragraph (a) of this section. If the assessment of a deficiency is prevented (except for the provisions of sections 1311 through 1315, inclusive, relating to the effect of limitations and other provisions in income tax cases) by the operation of any provision of law (e. g., sections 6501 and 6502, or the corresponding provisions of prior revenue laws, relating to the period of limitations upon assessment and collection) except section 7122, or the corresponding provisions of prior revenue laws, relating to compromises, or by any rule of law (e. g., res judicata), then the excess of the tax for such year as recomputed over the tax previously determined for such year shall be considered a deficiency for the purposes of section 270. The term "tax previously determined" shall have the same meaning as that assigned to such term by section 1314 (a). See § 1.1314 (a)-1.

(e) *Assessment of tax.* Any amount determined as a deficiency in the manner described in paragraph (d) of this section in respect of any taxable year of the five consecutive taxable years specified in paragraph (a) of this section may be assessed and collected as if on the date of the expiration of the period of limitation for the assessment of a deficiency for the fifth taxable year of such five consecutive taxable years, one year remained before the expiration of the period of limitation upon assessment for the taxable year in respect of which the deficiency is determined. If the taxable year is one in respect of which an assessment could be made without regard to section 270, the amount of the actual deficiency as defined in section 6211 (a) (whether it is greater than, equal to, or less than the deficiency determined under section 270 (c)) shall be assessed and collected. However, if the assessment of a deficiency for such taxable year would be prevented by any provision of law (e. g., the period of limitation upon the assessment of tax) except section 7122, or the corresponding provision of prior revenue laws, relating to compromises, or by the operation of any rule of law (e. g., res judicata), then the excess of the tax recomputed as described in paragraph (d) of this section over the tax previously determined may be assessed and collected even though in fact there is no actual deficiency, as defined in section 6211 (a), in respect of the given taxable year.

§ 1.271 *Statutory provisions; debts owed by political parties, etc.*

SEC. 271. *Debts owed by political parties, etc.*—(a) *General rule.* In the case of a taxpayer (other than a bank as defined in section 581) no deduction shall be allowed under section 166 (relating to bad debts) or under section 165 (g) (relating to worthlessness of securities) by reason of the worthlessness of any debt owed by a political party.

(b) *Definitions*—(1) *Political party.* For purposes of subsection (a), the term "political party" means—

(A) A political party;

(B) A national, State, or local committee of a political party; or

(C) A committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or vice-presidential electors or of any individual whose name is presented for election to any Federal, State, or local elective public office, whether or not such individual is elected.

(2) *Contributions.* For purposes of paragraph (1) (C), the term "contributions" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) *Expenditures.* For purposes of paragraph (1) (C), the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract,

promise, or agreement to make an expenditure, whether or not legally enforceable.

[SEAL] JUSTIN F. WINKLE,
Acting Commissioner of Internal Revenue.

Approved: September 9, 1957.

FRED C. SCRIBNER, Jr.
Acting Secretary of the Treasury.

[F. R. Doc. 57-7507; Filed, Sept. 12, 1957; 8:48 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—VETERANS CLAIMS

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

MISCELLANEOUS AMENDMENTS

1. In Part 3, immediately after § 3.255, a new § 3.255a is added as follows:

§ 3.255a *Discontinuance and recommencement of pension to veteran who is confined in a penal institution for more than 60 days after conviction of a felony or misdemeanor (Pub. Law 85-24, act of April 25, 1957).* (a) Where any veteran in receipt of pension under a public or private law administered by the Veterans Administration is imprisoned in a Federal, State or local penal institution for more than 60 days as the result of conviction of a felony or misdemeanor, such pension payments will be discontinued effective on the 61st day of imprisonment after conviction, or June 1, 1957, whichever is the later. At the time this action is taken the veteran will be duly informed of the provisions of paragraph (d) (2) of this section, where applicable.

(b) Where a veteran whose pension has been discontinued under paragraph (a) of this section has a wife, child or children, payment of pension may, upon receipt of an informal claim either from the veteran or the eligible payee(s), from a showing of need, be made to such wife, child or children during the period of his imprisonment, commencing the day following the effective date of discontinuance of payments to the veteran, subject to prior payments to the veteran over the same period, if any. The amount of pension payable to the wife and/or child or children may not exceed either the death pension rates payable under the applicable death pension law, or the amount which the veteran was receiving at time of his imprisonment, whichever is the lesser. Continued payments during the veteran's imprisonment will be contingent upon the veteran's eligibility. However, for the purpose of determining need, the income limitations which would control if the payee(s) was receiving death pension under Public Law 484, 73d Congress, as amended, will be applicable. Payments, if otherwise in order, will continue to be made to the wife or child until notice from the veteran (constituting an informal claim) is received in the Veterans Administration that the veteran's imprisonment has terminated.

(c) When an imprisoned veteran is entitled to a lesser rate of disability compensation, such rate will be awarded as of the 61st day of his imprisonment in lieu of the pension he was receiving, provided (1) he is a single man (no wife or child) or (2) from the date he requests such action, when married.

(d) (1) Pension payments to a veteran having a wife, child or children to whom an apportionment is being made will be recommenced effective the day of his release from incarceration, such payments to consist of the difference, if any, between his full pension entitlement and the amount paid his wife and/or child or children through the date of last payment and thereafter the full pension, provided the Veterans Administration is notified by the veteran of such release (notice constituting an informal claim).

(2) If the veteran has no wife or child, or no wife or child to whom an apportionment is being made, pension payments will be recommenced effective the day of his release from incarceration provided the Veterans Administration is notified by him of such release (the notice constituting an informal claim) within 1 year from the date thereof. If notice is not received within such time limit, payments may be resumed only from the date of receipt of the notice, if otherwise entitled.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, as amended, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interprets or applies Pub. Law 85-24; 71 Stat. 25)

2. In Part 4, paragraph (k) of § 4.86 is amended to read as follows:

§ 4.86 *Public Law 2, 73d Congress (act of March 20, 1933), as amended; sections 28 and 31, Title III, Public Law 141, 73d Congress (act of March 28, 1934), as amended; Public Law 484, 73d Congress (act of June 28, 1934), as amended; and Public Law 301, 79th Congress (act of February 18, 1946).* * * *

(k) *Election to receive Bureau of Employees' Compensation benefits.* Payment of death compensation or pension to any payee under any law administered by the Veterans Administration shall be discontinued effective the end of the month following the month in which there is received from the Bureau of Employees' Compensation, Department of Labor, notice that such payee has elected to receive benefits from that agency based upon military service in lieu of death compensation or pension from the Veterans Administration: *Provided,* That where payments of death compensation or pension to a widow are discontinued because of her election to receive benefits from the Bureau of Employees' Compensation, Department of Labor, payments to any child or children of the veteran, regardless of whether they are in the widow's custody, will be discontinued effective the same date.

3. Immediately after § 4.86, a new § 4.87 is added as follows:

§ 4.87 *Discontinuance and recommencement of pension to widow or child who is confined in a penal institution for more than 60 days after conviction of a felony or misdemeanor (Pub. Law 85-24, act of April 25, 1957).* (a) Where a widow or child to or for whom death pension is being paid under a public or private law administered by the Veterans Administration is imprisoned in a Federal, State or local penal institution for more than 60 days as a result of conviction of a felony or misdemeanor, such death pension payments will be discontinued effective on the 61st day of imprisonment after conviction, or June 1, 1957, whichever is the later. At the time this action is taken the payee will be duly informed of the provisions of paragraph (c) of this section.

(b) Where the widow or child of a veteran is disqualified for any period solely by reason of the application of paragraph (a) of this section, payment may, if the widow is disqualified, be made to the child or children, of the death pension that would be payable if there were no such widow or, if a child is disqualified there may be paid to the widow or other child or children the death pension which would be payable if there were no such child. Payment will be made to the eligible person(s) commencing the day following the effective date of discontinuance of payments to the disqualified person subject to prior payments to the disqualified person over the same period, if any. The annual income limitation applicable to the eligible person will be that which would apply if the imprisoned person did not exist. Payments will continue to be made, if otherwise in order, to the eligible person(s) until notice is received in the Veterans Administration that the person's imprisonment has terminated.

(c) Recommencement of benefits to a widow or to or for a child who was imprisoned will be made of the difference, if any, between the pension being paid during imprisonment and that otherwise payable from the date of release from incarceration, if notice of release is received by the Veterans Administration from the formerly incarcerated person within one year from the date of release (such notice constituting an informal claim). If notice is not received within such time limit, payments will be recommenced from the date of receipt of notice, if otherwise entitled.

(Interprets or applies Pub. Law 85-24, 71 Stat. 25)

4. In § 4.424, a new subparagraph (3) is added to paragraph (e) to read as follows:

§ 4.424 *Right of election.* * * *

(e) *Bureau of Employees' Compensation cases.* * * *

(3) Election by a widow controls the rights of the veteran's children, including children not in the widow's custody, and children who are not eligible to receive benefits under laws administered by the Bureau of Employees' Compensation.

5. In § 4.461, a new paragraph (d) is added as follows:

§ 4.461 *General.* * * *

(d) *Bureau of Employees' Compensation cases.* The discontinuance of dependency and indemnity compensation to any payee shall be effective the end of the month following the month in which

there is received from the Bureau of Employees' Compensation notice that such payee has elected to receive benefits from that agency based upon military service, in lieu of dependency and indemnity compensation. Where payments to a widow are discontinued, payments to any child of the veteran shall be discontinued effective the same date.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, as amended, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707)

This regulation is effective September 13, 1957.

[SEAL] JOHN S. PATTERSON,
Deputy Administrator.

[F. R. Doc. 57-7508; Filed, Sept. 12, 1957; 8:48 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.330]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

IMMIGRANT CLASSIFICATION SYMBOLS

Part 42, Chapter I, Title 22 of the Code of Federal Regulations, is hereby amended in the following respect:

Section 42.3 *Immigrant classification symbols* is amended by the addition of the following paragraph:

(d) The following symbols shall be used in the cases of nonquota immigrants who qualify for the benefits of the act of September 11, 1957 (Public Law 85-316).

Class	Section of the act	Symbol to be inserted in visa
Eligible orphan adopted abroad	4 (b) (2) (A)	K-1
Eligible orphan to be adopted	4 (b) (2) (B)	K-2
Spouse or child of adjusted first preference immigrant	9	K-3
Beneficiary of first preference petition approved prior to July 1, 1957	12	K-4
Spouse or child of beneficiary of first preference petition approved prior to July 1, 1957.	12	K-5
Beneficiary of second preference petition approved prior to July 1, 1957	12	K-6
Beneficiary of third preference petition approved prior to July 1, 1957	12	K-7
German expellee	15 (a) (1)	K-8
Netherlands refugee or relative	15 (a) (2)	K-9
Refugee-escapee	15 (a) (3)	K-10

The regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the provisions thereof involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

Dated: August 30, 1957.

RODERIC L. O'CONNOR,
Administrator,
Bureau of Security and Consular Affairs.

[F. R. Doc. 57-7381; Filed, Sept. 12, 1957; 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 1482]

[2084557]

TENNESSEE

ENLARGING TENNESSEE NATIONAL WILDLIFE REFUGE

Whereas, on December 21, 1956, the Tennessee Valley Authority and the United States Department of the Interior entered into an agreement, designated as Supplement No. 1 to Contract No. TV-91534, providing for the transfer by the Authority to the Department of certain rights with respect to lands therein designated and described in the Counties of Benton, Humphreys and Decatur, State of Tennessee, so that such lands might be reserved and used as a part of the Tennessee National Wildlife Refuge heretofore established by Executive Order No. 9670, of December 28, 1945, all in accordance with the terms and conditions of the agreement, and subject to the approval of the agreement by the Director of the Bureau of the Budget and to the issuance of a Public Land Order extending the Tennessee National Wildlife Refuge to include the said lands; and

Whereas, the agreement between the Tennessee Valley Authority and the Department of the Interior was approved by the Director of the Bureau of the Budget on May 3, 1957; and

Whereas, it appears that the extension of the boundaries of the Tennessee National Wildlife Refuge as contemplated by the agreement will further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222) and is in the public interest;

Now, therefore, by virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, I hereby reserve and set apart for use of the Department of the Interior as a refuge and wildlife management area for migratory birds and other wildlife, the additional lands designated and described for that purpose in the said agreement of December 21, 1956, between the Tennessee Valley Authority and the United States Department of the Interior, designated as Supplement No. 1 to Contract No. TV-91534, such reservation to be in accordance with, and subject to, the terms and conditions of the said agreement.

This reservation shall be a part of the Tennessee National Wildlife Refuge.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7524; Filed, Sept. 12, 1957; 8:52 a. m.]

[Public Land Order 1483]

[Utah 016431]

UTAH

RESERVING LANDS WITHIN NATIONAL FORESTS FOR USE OF FOREST SERVICE AS RECREATION AREAS, ADMINISTRATIVE SITES, AND ROADSIDE ZONE

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

Subject to valid existing rights, the following-described public lands within the national forests hereinafter designated, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws or the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as recreation areas, administrative sites, and a roadside zone as indicated:

SALT LAKE MERIDIAN

ASHLEY NATIONAL FOREST

Hoop Lake Recreation Area:
T. 2 N., R. 16 E., unsurveyed,
Sec. 9, NE¼NE¼, S½NE¼, and N½SE¼;
Sec. 10, NW¼ and N½SW¼.
The areas described aggregate 440 acres.

WASATCH NATIONAL FOREST

Henrys Fork Bridge Recreation Area:
T. 2 N., R. 14 E., unsurveyed,
Sec. 1, SW¼NW¼ and NW¼SW¼;
Sec. 2, SE¼NE¼ and NE¼SE¼.
The areas described aggregate 160 acres.
Upper Henrys Fork Recreation Area:
T. 2 N., R. 14 E., unsurveyed,
Sec. 14, SW¼NW¼ and NW¼SW¼;
Sec. 15, SE¼NE¼ and NE¼SE¼.
The areas described aggregate 160 acres.
China Meadows Recreation Area:
T. 2 N., R. 14 E., unsurveyed,
Sec. 6, SW¼;
Sec. 7, NW¼.
The areas described aggregate 320 acres.
Marsh Lake Recreation Area:
T. 3 N., R. 14 E.,
Sec. 30, S½SE¼;
Sec. 31, N½NE¼.
The areas described aggregate 160 acres.
Beaver Recreation Area:
T. 2 S., R. 7 E.,
H. E. S. No. 100 located in:
Sec. 27, NW¼ and W½NE¼;
Sec. 28, NE¼.
The areas described aggregate 116.61 acres.
Bridger Lake Recreation Area:
T. 3 N., R. 14 E.,
Sec. 29, S½NW¼ and N½SW¼.
The areas described aggregate 160 acres.

White Squaw Recreation Area:
T. 3 S., R. 3 E., unsurveyed,
Sec. 9, E½NE¼, unpatented portions;
Sec. 10, W½NW¼, unpatented portions.
The areas described aggregate approximately 14 acres.

Albion Basin Recreation Area:
T. 3 S., R. 3 E., unsurveyed,
Sec. 4, S½NW¼, unpatented portions, S½N½NW¼, SW¼, W½SE¼SE¼, and W½SE¼; unpatented portions;
Sec. 9, NW¼, unpatented portions, W½NE¼, N½SW¼, and NW¼NW¼SE¼; unpatented portions;
Sec. 8, E½SE¼, unpatented portions.
The areas described aggregate approximately 517 acres.

Bald Mountain Recreation Area:
T. 3 S., R. 3 E., unsurveyed,
Sec. 8, SE¼NW¼, unpatented portions, SW¼NE¼, NE¼SW¼, and NW¼SE¼, unpatented portions.
The areas described aggregate approximately 53 acres.

Peruvian Recreation Area:
T. 3 S., R. 3 E., unsurveyed,
Sec. 7, NE¼, unpatented portions, E½NW¼, and SE¼, unpatented portions;
Sec. 8, NW¼NW¼, unpatented portions.
The areas described aggregate approximately 163 acres.

Bridger Lake Administrative Site:
T. 3 N., R. 14 E.,
Sec. 29, SW¼SW¼ and W½SE¼SW¼;
Sec. 32, W½NW¼.
The areas described aggregate 140 acres.

Mt. Olympus Powder Magazine Administrative Site:
T. 2 S., R. 1 E.,
Sec. 11, SE¼NE¼ and NE¼SE¼.
The areas described aggregate 80 acres.

Kamas-Evanston (Utah #150) Highway Roadside Zone:
A strip of land 300 feet on each side of the center line of Kamas-Evanston (Utah #150) Highway through the following legal subdivisions:

Salt Lake Principal Meridian:
T. 1 N., R. 9 E.,
Sec. 24, NE¼SE¼, NE¼SW¼NE¼, and E½NE¼;
Sec. 25, W½SW¼, E½NW¼, NE¼SW¼;
Sec. 36, W½SW¼ and N½NW¼NW¼.
T. 1 N., R. 10 E.,
Sec. 5, lots 3, 4, W½SW¼, and SW¼NW¼;
Sec. 7, SE¼SE¼NE¼ and SE¼;
Sec. 18, lot 2, E½NW¼, and NW¼NE¼.
The areas described aggregate approximately 490 acres.

Uinta Special Meridian:
T. 3 N., R. 9 W.,
Sec. 3, lot 3.
T. 4 N., R. 9 W.,
Sec. 23, lot 5;
Sec. 26, NW¼SW¼, N½SE¼, S½NW¼; and NE¼;
Sec. 27, lot 4, SE¼SW¼, and NE¼SE¼;
Sec. 34, E½SW¼, E½NW¼, and NE¼.
The areas described aggregate approximately 440 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7525; Filed, Sept. 12, 1957; 8:52 a. m.]

[Public Land Order 1484]

[Anchorage 022116]

ALASKA

WITHDRAWING PUBLIC LANDS FOR USE OF UNITED STATES COAST GUARD AS POINT HIGGINS RADIO STATION

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

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral-leasing laws, and reserved for use of the United States Coast Guard in connection with the operation and maintenance of the Point Higgins Radio Station:

Beginning at a point from which Corner No. 9, U. S. Survey No. 3275 bears West, 4.484 chains, thence,
S. 89°24' E., 68.70 chains approximately, to Corner No. 3, U. S. S. 3022;
S. 85°08'30" E., 2.692 chains to Corner No. 13, U. S. S. 2808;
East, 16.48 chains;
South, 40.00 chains;
West, 87.88 chains;
North, 41.00 chains approximately, to point of beginning.

The tract described contains approximately 356 acres.

Public Land Order No. 842 of June 19, 1952, so far as it withdrew the lands for classification, is hereby revoked.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7526; Filed, Sept. 12, 1957; 8:52 a. m.]

[Public Land Order 1485]

[Nevada 045218]

NEVADA

WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF THE ARMY AS ARMY RESERVE TRAINING CENTER; PARTIALLY REVOKING PUBLIC LAND ORDER NO. 338 OF JANUARY 7, 1947

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

Subject to valid existing rights the following-described public lands in Nevada are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and the mineral-leasing laws, and reserved for use of the Department of the Army as an Army Reserve training center.

MOUNT DIABLO MERIDIAN

T. 21 S., R. 61 E.,
Sec. 1, E½SE¼SE¼SW¼.

The tract described contains 5 acres.

Public Land Order No. 338 of January 7, 1947, withdrawing lands under the jurisdiction of the Bureau of Land Management for an administrative site, is hereby revoked so far as it affects the above-described lands.

It is the intent of the order that the withdrawn minerals in the lands shall remain under the jurisdiction of the Department of the Interior, and no disposition shall be made of such minerals except under the applicable public land mining and mineral-leasing laws, and then only after such modification of the provisions of this order as may be necessary to permit such disposition.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7527; Filed, Sept. 12, 1957; 8:52 a. m.]

[Public Land Order 1486]

ALASKA

WITHDRAWING PUBLIC LANDS FOR RECREATIONAL PURPOSES PARTLY REVOKING PUBLIC LAND ORDER NO. 225 OF APRIL 21, 1944

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. Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601–604) as amended, and reserved for administration or transfer in accordance with the provisions of the act of May 4, 1956 (70 Stat. 130):

[Anchorage 033093]

(a) SEWARD AREA

Beginning at a point at mean high water on the north shore of Thumb Cove, Resurrection Bay, on the east side of the Kenai Peninsula, Alaska, at latitude 60°04'45" N., longitude 149°18'30" W., thence,
North, 12.00 chains;
East, 42.00 chains;
South, 42.00 chains;
S. 45° W., 64.00 chains;
N. 45° W., 8.00 chains to a point at mean high tide on the south shore of Thumb Cove whence Thumb Cove Light bears approximately N. 70° W.;
Northeasterly, northerly, and westerly along the mean high tide line of Thumb Cove to point of beginning.
The tract described contains 140 acres.

[Anchorage 033230]

(b) PAXSON AREA

TRACT "A"

Beginning at a point on the East bank of the Gulkana River at the confluence of the Middle Fork (Gulkana River) and the Gulkana River, thence,
Southerly, 15.00 chains along the east bank of Gulkana River;
Easterly, 15.00 chains;
Northerly, 48.00 chains to the south bank of the Gulkana River;
Southwesterly, 50.00 chains downstream along the southern and eastern bank of the Gulkana River to point of beginning.
The tract described contains 95 acres.

TRACT "B"

A strip of land parallel to and 5 chains in width extending approximately 160 chains along the south bank of the Gulkana River from the east boundary of the above-described tract to a point immediately south of Huffman's cabin on the outlet of Paxson Lake.

The tract described contains 80 acres.

[Anchorage 033232]

(c) STEPHAN AND SEVENMILE LAKE AREA

TRACT "A"

Beginning at a point identified by a 10" birch marked PSSWCMC1, on the southwesterly shore of Stephan Lake, latitude 61°28'45" N., longitude 149°56'56" W., thence,

S. 18° E., 0.15 chain;
S. 41°31' E., 2.41 chains;
N. 45° E., 4.15 chains;
N. 50° W., 2.82 chains;
Thence with meanders of Stephan Lake,
N. 10° W., 2.61 chains;
N. 16° E., 1.85 chains;
N. 19° W., 1.52 chains;
N. 72° W., 1.73 chains;
S. 71° W., 1.65 chains;
S. 52° W., 1.55 chains, thence leaving the shore;
S. 18° E., 8.18 chains to point of beginning.

The tract described contains 3.87 acres.

TRACT "B"

Beginning at a point identified by an 8" spruce marked PSSWCMC1, on the northwest shore of Sevenmile Lake, latitude 61°27'50" N., longitude 149°56'05" W., thence,

S. 77° E., 0.15 chain to shore of lake thence with meanders of Sevenmile Lake;
S. 13° W., 3.50 chains;
S. 36° W., 1.55 chains;
S. 59° W., 2.12 chains;
S. 70°15' W., 2.72 chains, thence leaving the shore;
N. 18° W., 5.00 chains;
N. 40° E., 3.85 chains;
S. 77° E., 5.00 chains to the point of beginning.

The tract described contains 3.69 acres.

TRACT "C"

Beginning at a point identified by a 6" spruce marked PSSMC1, on the southwest shore of Sevenmile Lake, latitude 61°27'33" N., longitude 149°56'30" W., thence by meanders of the Lake.

N. 74° E., 4.55 chains;
N. 85° E., 0.73 chains;
S. 54° E., 0.89 chains;
S. 32° E., 2.21 chains;
S. 22° E., 2.53 chains, thence leaving the the shore;
S. 68° W., 5.00 chains;
N. 31°45' W., 6.25 chains to point of beginning.

The tract described contains 3.12 acres.

TRACT "D"

Beginning at a point identified by an 8" spruce marked PSSWCMC1 on the west shore of an unnamed lake southwest of Stephan Lake, latitude 61°28'08" N., longitude 149°57'50" W., thence,

N. 46°30' E., 0.33 chains to shore of lake thence with meanders of the lake;
S. 65° E., 1.68 chains;
S. 72°30' E., 1.56 chains;
S. 45° E., 1.12 chains;
S. 3° E., 1.83 chains;
S. 36° W., 2.18 chains;
S. 25 W., 1.91 chains;
S. 59° W., 2.85 chains;
S. 53° W., 2.83 chains;
S. 61° W., 2.36 chains, thence leaving the shore;
N. 42° W., 5.00 chains;
N. 46°30' E., 11.48 chains to point of beginning.

The tract described contains 7.14 acres.

2. The withdrawal made by paragraph 1 (a) of this order shall be subject to Executive Order No. 8877 of August 29, 1941, withdrawing public lands for use of the War Department, so far as the latter order affects any of the lands described.

3. Public Land Order No. 225 of April 21, 1944, withdrawing public lands for classification, is hereby revoked so far as it affects the lands in paragraph 1 (b) of this order.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7528; Filed, Sept. 12, 1957; 8:52 a. m.]

[Public Land Order 1487]

[280796]

NEVADA

ABOLISHING NEVADA NATIONAL FOREST, TRANSFERRING ITS LANDS TO HUMBOLDT AND TOIYABE NATIONAL FORESTS

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 11, 36; 16 U. S. C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952, and upon the recommendation of the Department of Agriculture, it is ordered as follows:

1. The national forest lands in the following-described townships, now comprising that part of the Nevada National Forest defined by Proclamation No. 839 of February 10, 1909, and as subsequently modified by Proclamations Nos. 1221 of October 28, 1912, and 1509 of January 25, 1919, and Executive Orders Nos. 5863 of June 23, 1932, and 7884 of May 9, 1938, are hereby transferred to and consolidated with the Humboldt National Forest:

MOUNT DIABLO MERIDIAN

Tps. 2 and 3 N., R. 55 E., unsurveyed.
T. 4 N., R. 55 E.
Tps. 2, 3, and 4 N., R. 56 E., unsurveyed.
T. 3 N., R. 57 E.
Tps. 4, 5, 6, 12, 13, 14, and 15 N., R. 57 E., unsurveyed.
Tps. 16 and 17 N., R. 57 E.
Tps. 4, 5, and 6 N., R. 58 E., unsurveyed.
T. 11 N., R. 58 E., partly unsurveyed.
T. 12 N., R. 58 E., unsurveyed.
T. 13 N., R. 58 E., partly unsurveyed.
Tps. 14, 15, 16, and 17 N., R. 58 E.
T. 11 N., R. 59 E.
T. 12 N., R. 59 E., unsurveyed.
T. 13 and 14 N., R. 59 E.
T. 15 N., R. 59 E., unsurveyed.
Tps. 16 and 17 N., R. 59 E.
Tps. 11, 12, and 13 N., R. 60 E.
T. 14 N., R. 60 E.
Tps. 14, 15, and 16 N., R. 62 E.
Tps. 14, 15, and 16 N., R. 63 E.
Tps. 15, 16, and 17 N., R. 64 E.
T. 21 N., R. 64 E., partly unsurveyed.
T. 22 N., R. 64 E.
Tps. 14, 15 and 16 N., R. 65 E.
Tps. 17, 18 and 19 N., R. 65 E., partly unsurveyed.
T. 20 N., R. 65 E., unsurveyed.
Tps. 21 and 22 N., R. 65 E.
Tps. 14, 15, 16, 17, 18 and 19 N., R. 66 E., partly unsurveyed.
T. 20 N., R. 66 E.
T. 10 N., R. 68 E., unsurveyed.
T. 11 N., R. 68 E., partly unsurveyed.
T. 12 N., R. 68 E., unsurveyed.
T. 13 N., R. 68 E., partly unsurveyed.
Tps. 14 and 15 N., R. 68 E.
T. 16 N., R. 68 E., partly unsurveyed.
T. 17 N., R. 68 E.
Tps. 10, 11 and 12 N., R. 69 E., unsurveyed.
T. 13 N., R. 69 E., partly unsurveyed.
Tps. 14 and 15 N., R. 69 E.
Tps. 16 and 17 N., R. 69 E., unsurveyed.
T. 10 N., R. 70 E., partly unsurveyed.
Tps. 11, 12 and 13 N., R. 70 E.
Tps. 15, 16 and 17 N., R. 70 E.

2. The national forest lands in the following-described townships, now comprising that part of the Nevada National Forest defined by Proclamation of November 5, 1906 (34 Stat. 3252), as the Charleston Forest Reserve, and as subsequently modified by Executive Orders Nos. 908 of July 2, 1908, 1174 of December 8, 1911, 2162 of April 6, 1915, and 7607 of April 19, 1937, and by Proclamations Nos. 833 of January 21, 1909, 1134 of May 10, 1916, and 1465 of July 12, 1918, are hereby transferred to and consolidated with the Toiyabe National Forest:

MOUNT DIABLO MERIDIAN

Tps. 18 and 19 S., R. 55 E.
Tps. 18, 19 and 20 S., Rs 56 and 57 E.

3. It is not intended by this order to give a national forest status to any publicly owned lands which have not hitherto had such a status, or to change the status of any publicly owned lands which have hitherto had national forest status.

4. This order shall be effective on October 1, 1957.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7529; Filed, Sept. 12, 1957; 8:53 a. m.]

[Public Land Order 1488]

(Fairbanks 010504)

ALASKA

WITHDRAWING PUBLIC LANDS FOR RECREATIONAL PURPOSES

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

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved for administration or transfer in accordance with the provisions of the act of May 4, 1956 (70 Stat. 130):

1. MOON LAKE CAMPGROUND

Begining at a point on the centerline of the Alaska Highway at mile post 1338, latitude 63°23' N., longitude 143°30'W., thence,

Southeasterly, 4.40 chains along the centerline;

N. 16° E., 16.60 chains to a point on the line of mean high water Moon Lake, thence following the line of mean high water the following five courses;
S. 73° W., 0.71 chains;
N. 84° W., 1.55 chains;
N. 78° W., 2.16 chains;
N. 72° W., 2.96 chains;
N. 62° W., 2.86 chains;
S. 16° W., 16.15 chains to a point on the centerline of the Alaska Highway;
Southeasterly 5.60 chains along the centerline to the point of beginning;
The tract described contains 14.85 acres.

2. RETREAT CAMPGROUND

Beginning at a point on the centerline of the Steese Highway from which Milepost 36 bears westerly 2.50 chains, latitude 65°11'49" N., longitude 147°16' W., thence,
Northerly, 100 feet to a point from which M. P. 36 bears S. 50°30' W., 3.98 chains;
N. 70°30' W., 10.00 chains;
N. 60°00' W., 3.35 chains;
N. 20°00' W., 1.80 chains to line of mean high water on the left limit of Chatanika River;
Thence along said line of mean high water upstream,
N. 70°30' E., 1.29 chains;
N. 68°00' E., 1.35 chains;
N. 72°00' E., 1.58 chains;
N. 46°00' E., 9.00 chains;
N. 59°00' E., 4.12 chains;
N. 66°00' E., 1.03 chains;
S. 86°00' E., 1.84 chains;
S. 89°00' E., 1.67 chains;
S. 75°00' E., 1.87 chains;
S. 76°00' E., 2.36 chains;
S. 65°00' E., 1.73 chains;
S. 63°00' E., 1.49 chains;
S. 60°30' E., 1.05 chains;
Thence leaving line of mean high water,
S. 8°00' E., 13.39 chains to a point on the centerline of Steese Highway;
S. 82°00' W., 15.18 chains along centerline to point of beginning.
The tract described contains 34.30 acres.

3. CHATANIKA RIVER BRIDGE CAMPGROUND

Beginning at a point on the centerline of Steese Highway at the north bank of the Chatanika River and north end of the river bridge, latitude 65°12' N., longitude 147°15' W., thence,
N. 29° W., 10.00 chains along said centerline;
West, 10.00 chains;
South, 8.72 chains to the north bank of Chatanika River;
East, 14.80 chains along north bank to point of beginning.
The tract described contains 9.40 acres.

4. MILE 47 STEESE CAMPGROUND

Beginning at a point from which Milepost 47, Steese Highway, bears N. 75°30' E., 13.20 chains, latitude 65°13'30" N., longitude 146° 58' W., thence,
South, 2.30 chains to line of mean high water of Chatanika River;
Thence along the line of mean high water,
West, 0.50 chains;
N. 42° W., 1.51 chains;
West, 2.26 chains;
S. 29°30' W., 1.23 chains;
S. 61°30' W., 2.25 chains;
S. 41° W., 1.50 chains;
S. 62° W., 2.43 chains;
N. 33° W., 1.42 chains;
N. 53° W., 5.40 chains;
N. 80°30' W., 2.00 chains;
S. 80°30' W., 2.00 chains, thence leaving the shore line;
North, 5.70 chains;
East, 9.38 chains;
S. 53°30' E., 6.65 chains;
S. 75°00' E., 2.60 chains;
N. 80°00' E., 1.15 chains to the point of beginning.
The tract described contains 7.80 acres.

5. TOLOVANA CAMPGROUND

Beginning at a point on the centerline of the Elliot Highway at the south end of the bridge crossing the Tolovana River, latitude 65°10' N., longitude 148°17' W., thence,
Southerly, 9.68 chains along centerline;
S. 61° W., 5.95 chains;
N. 28°30' W., 19.50 chains;
N. 70°30' E., 7.20 chains to a point on the centerline of the Elliot Highway;
Southerly, 6.05 chains along centerline to point of beginning.
The tract described contains 8.80 acres.

6. BEDROCK CREEK CAMPGROUND

Beginning at a point on the centerline of Steese Highway at its crossing of Bedrock Creek, latitude 65°35' N., longitude 145°03' W., thence,
S. 53° W., 7.02 chains along centerline;
N. 23° W., 20.80 chains;
N. 67° E., 17.70 chains;
S. 23° E., 18.39 chains to a point on the centerline of Steese Highway;
Southwesterly, 11.00 chains along centerline to point of beginning.
The tract described contains 15.40 acres.

7. DEADMAN LAKE CAMPGROUND

Beginning at a point on the line of mean high water of Deadman Lake, thence,
N. 45° E., 8.00 chains to a point from which milepost 1250 Alaska Highway bears S. 65° E., 1.33 miles;
N. 45° W., 20.00 chains;
S. 45° W., 8.00 chains to a point on line of mean high water on Deadman Lake;
Southeasterly, 21.00 chains along line of mean high water to point of beginning.
The tract described contains 20.00 acres.

8. TOK RIVER CAMPGROUND

Beginning at a point on the centerline of the Alaska Highway and the east end of the Tok River bridge, latitude 63°20'12" N., longitude 142°59' W., thence,
S. 75°45' E., 5.00 chains along centerline;
N. 10°15' E., 5.40 chains to a point on line of mean high water of Tok River.
Thence following line of mean high water,
N. 81° W., 5.80 chains;
N. 88° W., 1.17 chains;
S. 75° W., 0.41 chains;
S. 37°30' W., 0.91 chains;
S. 16° W., 4.00 chains, thence leaving line of mean high water;
S. 75°45' E., 3.00 chains to point of beginning.
The tract described contains 4.10 acres.

9. CLEARWATER CAMPGROUND

Beginning at corner No. 1, U. S. Survey No. 2840, latitude 64°03'30" N., longitude 145°32' W., thence,
North, 5.00 chains;
East, 19.00 chains;
South, 23.00 chains parallel with portion of west boundary of R. R.;
West, 22.38 chains;
North, 12.03 chains to corner 2, U. S. S. 2840;
N. 29°30' E., 6.86 chains to point of beginning.
The tract described contains 48.14 acres.

The areas described aggregate approximately 163 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F .R. Doc. 57-7530; Filed, Sept. 12, 1957; 8:53 a. m.]

[Public Land Order 1489]

[Anchorage 025583]

ALASKA

WITHDRAWING PUBLIC LANDS FOR RECREATIONAL PURPOSES AS NANCY LAKE RECREATION AREA

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

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved under the jurisdiction of the Bureau of Land Management, Department of the Interior, for recreational purposes:

SEWARD MERIDIAN

T. 19 N., R. 4 W.,
Sec. 28, lots 9 and 26;
Sec. 33, lot 54;
Sec. 34, lots 20, 21, 28, and 29.

The areas described aggregate 53.42 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7531; Filed, Sept. 12, 1957; 8:53 a. m.]

[Public Land Order 1490]

[Anchorage 033231]

ALASKA

WITHDRAWING PUBLIC LANDS FOR RECREATIONAL PURPOSES

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

Subject to valid existing rights, the following-described public lands in Alaska, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved for administration or transfer in accordance with the provisions of the act of May 4, 1956 (70 Stat. 130):

Beginning at a point on the west extremity of a small peninsula on the southeasterly shore of Landmark Gap Lake, latitude 63°06'20" N., longitude 146°04'34" W., thence
Southeasterly, 10 chains along shoreline;
Easterly, 2 chains;
Northerly, 15 chains;
Westerly, 2 chains to shoreline;
Southwesterly, 10 chains along shoreline to point of beginning.

The tract described contains 7 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7532; Filed, Sept. 12, 1957; 8:53 a. m.]

[Public Land Order 1491]

[Fairbanks 014046]

ALASKA

REVOKING EXECUTIVE ORDER NO. 8305 OF DECEMBER 19, 1939 AS AMENDED, WHICH WITHDREW LANDS FOR USE OF WAR DEPARTMENT; RESERVING LANDS FOR USE OF DEPARTMENT OF THE AIR FORCE

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Order No. 8305 of December 19, 1939, as amended and modified by Public Land Order Nos. 679 of October 26, 1950, and 743 of August 16, 1951, which reserved the following-described lands for use of the War Department, is hereby revoked:

FAIRBANKS MERIDIAN

T. 1 S., R. 1 W.,
Sec. 5, lots 2, 3, and 4.
T. 1 N., R. 1 W.,
Sec. 32, N½, SW¼, N½SE¼, and SW¼ SE¼.

The area described contains 718.99 acres.

2. Subject to valid existing rights the following-described lands which are a part of the lands described in paragraph 1 of this order are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for use of the Department of the Air Force as a technical service site:

FAIRBANKS MERIDIAN

That portion of the W½ of the W½ of section 32, Township 1 North, Range 1 West described by metes and bounds as follows:

Starting at the common corner of sections 30, 29, 31, and 32 thence 900 feet south following the section line between sections 32 and 31 to the point of beginning;

Thence 1,000 feet east on a line parallel to the section line between sections 29 and 32;

Thence 2,400 feet south following a line parallel to the section line common to sections 31 and 32;

Thence 1,000 feet west on a line parallel to the section line common to sections 29 and 32;

Thence 2,400 feet north following the section line common to sections 31 and 32 to the point of beginning.

The area described contains approximately 55.1 acres.

3. Of the lands released by paragraph 1 of this order, approximately 1.90 acres in the southeast corner of lot 2, sec. 5, T. 1 S., R. 1 W., was reserved by Public Land Order No. 743 of August 16, 1951 for use of the Department of Agriculture, Soil Conservation Service. The remaining lands have been conveyed to the University of Alaska through the General Services Administration.

4. It is the intent of this order that the withdrawn minerals in the lands shall remain under the jurisdiction of the Department of the Interior, and no disposition shall be made of such minerals except under the applicable United States mining and mineral-leasing laws, and then only after such modification of the provisions of this order as may be necessary to permit such disposition.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7533; Filed, Sept. 12, 1957; 8:53 a. m.]

[Public Land Order 1492]

[Colorado 011662]

COLORADO

RESERVING PUBLIC LANDS WITHIN ROUTT NATIONAL FOREST FOR USE OF FOREST SERVICE, DEPARTMENT OF AGRICULTURE, AS CAMP GROUNDS, RECREATION AREAS AND ADMINISTRATIVE SITES

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

Subject to valid existing rights, the following-described public lands within the Routt National Forest in Colorado are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601-604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as indicated:

SIXTH PRINCIPAL MERIDIAN, COLORADO

ROUTT NATIONAL FOREST

Lynx Pass Administrative Site:
T. 2 N., R. 83 W.,
Sec. 27, NE¼.

The area described contains 160 acres.

Crosho Lake Recreation Area:
T. 2 N., R. 86 W.,
Sec. 4, lots 16 and 20;
Sec. 5, E½SE¼.
The areas described aggregate 152.46 acres.

Pyramid Administrative Site:
T. 2 N., R. 88 W.,
Sec. 12, NE¼SW¼, E½NW¼SW¼, N½ S½SW¼, SW¼SE¼SW¼, S½SW¼ SW¼, NW¼NW¼SE¼;
Sec. 13, NW¼NE¼NW¼, and N½ NW¼NW¼.
The areas described aggregate 170 acres.

Vaughn Lake Recreation Area:
T. 2 N., R. 88 W.,
Sec. 22, Area located in approximately NE¼ Sec. 22 (unsurveyed). West end of centerline of reservoir dam bears N. 8°04'14" E., 6,413.09 feet to section corner common to secs. 10, 11, 14, and 15, T. 2 N., R. 88 W., Beginning at west end of centerline of dam; thence west 1,270 feet, thence south 2,000 feet, thence east 2,000 feet, thence north 2,000 feet and thence west 730 feet to point of beginning.
The tract described contains 91.8 acres.

Oak Creek Administrative Site:
T. 3 N., R. 87 W.,
Sec. 36, W½ lot 10, and E½SE¼SW¼.
The areas described aggregate 40 acres.

Parkview Camp Ground:
T. 5 N., R. 78 W.,
Sec. 23, E½SE¼SE¼;
Sec. 24, W½SW¼SW¼;
Sec. 25, W½NW¼NW¼;
Sec. 26, E½NE¼NE¼.
The areas described aggregate 80 acres.

Bundy Park Camp Ground:
T. 5 N., R. 80 W.,
Sec. 14, SW¼SW¼.
The area described contains 40 acres.

Yampa View Camp Ground:
T. 5 N., R. 84 W.,
Sec. 26, SE¼SW¼NE¼, SW¼SE¼NE¼, NE¼NW¼SE¼, and NW¼NE¼SE¼.
The areas described aggregate 40 acres.

Pines Camp Ground:
T. 6 N., R. 77 W.,
Sec. 14, W½NW¼SW¼;
Sec. 15, E½NE¼SE¼.
The areas described aggregate 40 acres.

Teal Lake-Tiago Lake Recreation Area:
T. 7 N., R. 82 W.,
Sec. 16, NW¼NW¼NE¼, NE¼NW¼, SE¼NW¼NW¼, NE¼SW¼NW¼, W½ SW¼NW¼, N½SE¼SW¼NW¼, and NW¼NW¼SW¼.
The areas described aggregate 105 acres.

Rainbow Lake Recreation Area:
T. 8 N., R. 82 W.,
Sec. 19, E½SE¼;
Sec. 20, SW¼, and NW¼SE¼.
The areas described aggregate 280 acres.

Seedhouse Administrative Site:
T. 9 N., R. 84 W.,
Sec. 2, lots 6, 7, SW¼NE¼, and SE¼NW¼.
The areas described aggregate 160.64 acres.

California Park Administrative Site:
T. 9 N., R. 87 W.,
Sec. 2, W½NW¼NW¼;
Sec. 3, NE¼NE¼.
T. 10 N., R. 87 W.,
Sec. 34, SE¼SE¼;
Sec. 35, W½SW¼SW¼.
The areas described aggregate 120 acres.

Slater Park Camp Ground:
T. 10 N., R. 87 W.,
Sec. 9, N½NW¼NE¼.
The area described contains 20 acres.

Summit Creek Administrative Site:
T. 11 N., R. 86 W.,
Sec. 25, SE¼.
The area described contains 160 acres.

Hog Park Administrative Site:
T. 12 N., R. 84 W.,
Sec. 16, lots 1 and 2;
Sec. 21, N½NE¼.
The areas described aggregate 143.8 acres.

Whiskey Park Administrative Site:
T. 12 N., R. 85 W.,
Sec. 27, SW¼SW¼NW¼, and W½NW¼ SW¼;
Sec. 28, SE¼SE¼NE¼, and E½NE¼ SE¼.
The areas described aggregate 60 acres.

Whiskey Creek Camp Ground:
T. 12 N., R. 85 W.,
Sec. 22, W½SE¼SW¼, and E½SW¼ SW¼.
The areas described aggregate 40 acres.

The areas described aggregate 1903.70 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes, and shall be subject to existing withdrawals for power purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7534; Filed, Sept. 12, 1957; 8:54 a. m.]

[Public Land Order 1493]

[Colorado 016619]

COLORADO

RESERVING PUBLIC LANDS WITHIN ROOSEVELT NATIONAL FOREST FOR USE OF FOREST SERVICE, DEPARTMENT OF AGRICULTURE, AS RECREATION AREAS AND ADMINISTRATIVE SITES

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

Subject to valid existing rights the following-described public lands within the Roosevelt National Forest in Colorado are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601–604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as indicated:

ROOSEVELT NATIONAL FOREST

Brown Park Campground:
T. 10 N., R. 76 W.,
Sec. 33, NE¼NW¼, N½SE¼NW¼.
Chambers Lake Campground:
T. 7 N., R. 75 W.,
Sec. 6, SE¼SW¼, E½SW¼SW¼;
Sec. 7, NW¼SE¼NW¼, NW¼NW¼NE¼.
Hooligan Roost Campground:
T. 10 N., R. 76 W.,
Sec. 29, S½NW¼SE¼, N½SW¼SE¼.
Skyline Campground:
T. 8 N., R. 75 W.,
Sec. 19, E½ Lot 1, NE¼ Lot 2.
Tunnel Campground:
T. 8 N., R. 75 W.,
Sec. 7, S½ Lot 3, N½ Lot 4, NE¼SW¼, NW¼SE¼SW¼.
Bellaire Lake Campground:
T. 9 N., R. 73 W.,
Sec. 6, NW¼SE¼, SW¼NE¼, E½NE¼SW¼.
Sleeping Elephant Campground:
T. 8 N., R. 75 W.,
Sec. 11, NE¼NE¼NW¼, W½NW¼NE¼.
Tom Bennett Campground:
T. 7 N., R. 73 W.,
Sec. 16, E½SE¼NW¼, W½SW¼NE¼.
Mt. Meeker Campground:
T. 3 N., R. 73 W.,
Sec. 11, SE¼NW¼.
Dahl Kelly Campground:
T. 1 S., R. 72 W.,
Sec. 30, S½SW¼NW¼, SW¼SE¼NW¼, NW¼SW¼, W½NE¼SW¼.
Creedmore Lake Campground:
T. 10 N., R. 73 W.,
Sec. 4, SW¼NW¼, S½NW¼NW¼.
West Lake Campground:
T. 10 N., R. 73 W.,
Sec. 34, S½N½NW¼, SE¼NW¼.
Sheep Creek Campground:
T. 11 N., R. 74 W.,
Sec. 12, W½SW¼, SE¼SW¼, S½NE¼SW¼.
Allenspark Campground:
T. 3 N., R. 73 W.,
Sec. 26, SW¼NE¼, S½NW¼NE¼.
Jenny Lake Campground:
T. 1 S., R. 74 W.,
Sec. 27, E½SW¼NW¼, W½SE¼NW¼.
North Fork Poudre Picnic Ground:
T. 10 N., R. 74 W.,
Sec. 20, S½NE¼SE¼, N½SE¼SE¼.
Ansel Watrous Picnic Ground:
T. 8 N., R. 71 W.,
Sec. 4, S½SW¼NE¼, SW¼SE¼NE¼, N½NW¼SE¼.
Bennett Creek Picnic Ground:
T. 8 N., R. 73 W.,
Sec. 13, N½SE¼SE¼.
Big South Picnic Ground:
T. 8 N., R. 75 W.,
Sec. 28, NE¼NW¼SE¼, NW¼NE¼SE¼.
Diamond Rock Picnic Ground:
T. 8 N., R. 71 W.,
Sec. 3, SE¼ Lot 2, NE¼SW¼NE¼, NW¼SE¼NE¼.
Fish Creek Picnic Ground:
T. 7 N., R. 73 W.,
Sec. 1, Lot 4.
Narrows Picnic Ground:
T. 8 N., R. 72 W.,
Sec. 2, SW¼SE¼NW¼, NW¼NE¼SW¼.
Rist Canyon Picnic Ground:
T. 8 N., R. 71 W.,
Sec. 26, S½NE¼NW¼, SE¼NW¼NW¼, SW¼NW¼.
Upper and Lower North Fork Picnic Grounds:
T. 6 N., R. 72 W.,
Sec. 26, W½NW¼SE¼, E½NE¼SW¼.
Longmont Picnic Ground:
T. 2 N., R. 73 W.,
Sec. 13, S½SW¼SW¼, S½SE¼SW¼;
Sec. 24, N½NW¼NW¼, N½NE¼NW¼.
Middle St. Vrain Picnic Ground:
T. 2 N., R. 73 W.,
Sec. 13, S½SE¼SE¼;
Sec. 24, N½NE¼NE¼.
Mont Alto Picnic Ground:
T. 1 N., R. 72 W.,
Sec. 15, NE¼SW¼, E½NW¼SW¼, NE¼SW¼SW¼, N½SE¼SW¼.
Rainbow Lakes Picnic Ground:
T. 1 N., R. 73 W.,
Sec. 33, SE¼NE¼NW¼, NE¼SE¼NW¼, SW¼NW¼NE¼, NW¼SW¼NE¼.
South St. Vrain Picnic Ground:
T. 3 N., R. 71 W.,
Sec. 26, S½NW¼NW¼.
Brainard Lake Recreation Area:
T. 1 N., R. 73 W.,
Sec. 5, E½NE¼SE¼, SE¼SE¼NE¼;
Sec. 4, S½S½NW¼, N½SW¼, N½S½SW¼, NW¼SE¼, NW¼SW¼SE¼.
Dowdy Lake Recreation Area:
T. 10 N., R. 73 W.,
Sec. 27, SE¼, N½SE¼SW¼, SE¼SE¼SW¼;
Sec. 26, W½SW¼, SW¼NW¼;
Sec. 34, N½NE¼, NE¼NE¼NW¼.
Fox Creek Recreation Area:
T. 3 N., R. 73 W.,
Sec. 24, NW¼SW¼, W½NE¼SW¼;
Sec. 23, NE¼SE¼.
Rock Creek Recreation Area:
T. 2 N., R. 73 W.,
Sec. 2, SE¼SW¼.
Redfeather Ranger Station Administrative Site:
T. 10 N., R. 73 W.,
Sec. 34, N½NW¼NW¼, NW¼NE¼NW¼, S½NE¼;
Sec. 27, SW¼SE¼SW¼.
White Pine Lookout Administrative Site:
T. 7 N., R. 72 W.,
Sec. 4, SE¼NW¼.
Deadman Lookout Administrative Site:
T. 10 N., R. 75 W.,
Sec. 13, SE¼NW¼SE¼, SW¼NE¼SE¼, NW¼SE¼SE¼, NE¼SW¼SE¼.
Mt. Thorodin Lookout Administrative Site:
T. 2 S., R. 72 W.,
Sec. 11, N½SE¼NW¼.
Ft. Collins Mt. Recreation Area:
T. 8 N., R. 72 W.,
Sec. 4, SE¼SE¼SW¼, S½SW¼SE¼, SW¼SE¼SE¼;
Sec. 9, NE¼NW¼, N½NW¼NE¼.

The areas described total 2674.48 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7535; Filed, Sept. 12, 1957; 8:54 a. m.]

[Public Land Order 1494]

[Colorado 016735]

RESERVING PUBLIC LANDS WITHIN SAN JUAN NATIONAL FOREST FOR USE OF FOREST SERVICE, DEPARTMENT OF AGRICULTURE, AS PICNIC GROUNDS, RECREATION AREAS, AND ADMINISTRATIVE SITES

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

Subject to valid existing rights the following-described public lands in the San Juan National Forest, Colorado, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601–604), as amended, and reserved for use of the Forest Service, Department of Agriculture, as indicated:

SAN JUAN NATIONAL FOREST

Dolores River Canyon Overlook Picnic Ground:
T. 41 N., R. 17 W.,
Sec. 18, S½S½SW¼SW¼;
Sec. 19, W½NW¼NW¼, W½E½NW¼NW¼, NW¼SW¼NW¼.
Navareeso Campground:
T. 39 N., R. 13 W.,
Sec. 9, S½S½NW¼, N½NW¼SW¼, NW¼NE¼SW¼.
Transfer Picnic Ground:
T. 37 N., R. 12 W.,
Sec. 17, S½NW¼.
Burro Bridge Campground:
T. 41 N., R. 11 W.,
Sec. 27, S½SW¼NE¼, N½NW¼SE¼, E½NE¼SW¼, SW¼NW¼SE¼.
Sig Creek Campground:
T. 39 N., R. 9 W.,
Sec. 20, W½SW¼NE¼.
Columbine Campground:
T. 39 N., R. 9 W.,
Sec. 25, SE¼NW¼NW¼.
West Fork Campground:
T. 37 N., R. 1 E.,
Sec. 17, NE¼SW¼, E½NW¼SW¼, N½SE¼SW¼, W½SE¼NW¼, E½SW¼NW¼, SE¼SE¼NW¼.
Williams Creek Campground:
T. 38 N., R. 3 W.,
Sec. 30, W½SE¼.
East Columbine Campground:
T. 39 N., R. 9 W.,
Sec. 24, SW¼SE¼.
Lower Piedra Campground:
T. 34 N., R. 4 W., North of Ute Ceded Line,
Sec. 5, W½SW¼, SW¼NW¼.
West Dolores Campground:
T. 39 N., R. 13 W.,
Sec. 10, NE¼NW¼, W½NW¼NE¼.
East Fork Campground:
T. 36 N., R. 1 E.,
Sec. 7, E½NW¼.
Transfer Park Campground:
T. 37 N., R. 7 W.,
Sec. 19, E½NW¼, E½W½NW¼.

Emerson Campground:
T. 39 N., R. 13 W.,
Sec. 18, SE¼SW¼, S½ lot 2;
Sec. 19, N½ lot 1, NE¼NW¼.
Glade Guard Station Administrative Site:
T. 41 N., R. 16 W.,
Sec. 28, S½SE¼SE¼;
Sec. 33, NE¼NE¼.
Glade Mtn. Lookout Adm. Site:
T. 41 N., R. 16 W.,
Sec. 36, S½NE¼NW¼, N½SE¼NW¼.
Dunton Guard Station Adm. Site:
T. 41 N., R. 11 W.,
Sec. 28, W½SE¼, E½SW¼.
Cottonwood Guard Station Adm. Site:
T. 40 N., R. 14 W.,
Sec. 36, SW¼NE¼, E½SE¼NW¼, N½NW¼SE¼, NE¼NE¼SW¼.
Aspen Guard Station Adm. Site:
T. 37 N., R. 12 W.,
Sec. 8, SW¼NE¼, S½SE¼NE¼;
Sec. 9, SW¼SW¼NW¼.
Animas Ranger Station Adm. Site:
T. 36 N., R. 9 W.,
Sec. 22, SW¼SE¼;
Sec. 27, NE¼.
Yellow Jacket Guard Station Adm. Site:
T. 34 N., R. 5 W., North of Ute Line,
Sec. 10, lots 1, 2, 3;
Sec. 15, NE¼NW¼.
Chimney Rock Lookout Adm. Site:
T. 34 N., R. 4 W., South of Ute Line,
Sec. 17, SW¼SW¼NE¼, W½NW¼SE¼, E½NE¼SW¼, SW¼SE¼.
Jersey Jim Lookout Adm. Site:
T. 37 N., R. 12 W.,
Sec. 4, SW¼NE¼.
Granite Peaks Guard Station Adm. Site:
T. 39 N., R. 4 W., Unsurveyed,
Sec. 19, E½SW¼, W½SE¼.
Silver Falls Guard Station Adm. Site:
T. 37 N., R. 2 E.,
Sec. 28, NE¼SW¼, E½NW¼SW¼, N½N½SE¼SW¼.
Treasure Guard Station Adm. Site:
T. 36 N., R. 1 W.,
Sec. 33, SE¼NW¼, N½SW¼.
Eight Mile Mesa Lookout Adm. Site:
T. 34 N., R. 1 W.,
Sec. 19, E½SW¼NW¼.

The areas described total 2,374.57 acres.

This order shall be subject to existing withdrawals for reclamation purposes so far as they affect any of the above-described lands, and shall take precedence over, but not otherwise affect, the existing reservation of the lands for national forest purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7536; Filed, Sept. 12, 1957; 8:54 a. m.]

[Public Land Order 1495]

[Colorado 07761]

COLORADO

WITHDRAWING PUBLIC LANDS FOR USE OF UNITED STATES ATOMIC ENERGY COMMISSION

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

Subject to valid existing rights, the hereinafter-described public lands in Colorado are hereby withdrawn as indicated and reserved for use of the United States Atomic Energy Commission:

a. From all forms of disposition under the public land laws, including the mining and the mineral-leasing laws:

NEW MEXICO PRINCIPAL MERIDIAN

T. 43 N., R. 19 W.,
Sec. 36, W½NW¼SE¼SE¼, and SW¼SW¼NE¼SE¼.

The areas described aggregate 7.5 acres.

b. From all forms of disposition under the public land laws, including the mining but not the mineral-leasing laws:

NEW MEXICO PRINCIPAL MERIDIAN

T. 43 N., R. 18 W.,
Sec. 4, NW¼.
T. 44 N., R. 18 W.,
Sec. 32, lots 2, 3, and 5;
Sec. 33, SW¼NW¼, and NW¼SW¼.

The areas described aggregate 215.47 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7537; Filed, Sept. 12, 1957; 8:54 a. m.]

[Public Land Order 1496]

[BLM 042717]

MISSISSIPPI

WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF THE ARMY FOR MILITARY PURPOSES

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

Subject to valid existing rights, the following-described lands in Mississippi are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral-leasing laws, and reserved for use of the Department of the Army for military purposes:

ST. STEPHENS MERIDIAN

T. 3 N., R. 12 W.,
Sec. 19, SW¼SW¼.

The area described contains 34.76 acres.

It is the intent of this order that the withdrawn minerals in the lands shall remain under the jurisdiction of the Department of the Interior, and no disposition shall be made of such minerals except under the applicable United States mining and mineral-leasing laws, and then only after such modification of the provisions of this order as may be necessary to permit such disposition.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7538; Filed, Sept. 12, 1957; 8:54 a. m.]

[Public Land Order 1501]

[Washington 01599]

WASHINGTON

RESERVING PUBLIC LANDS FOR USE OF FOREST SERVICE FOR USE AS RECREATION AREAS AND ROADSIDE ZONE

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

Subject to valid existing rights, the following-described public lands within the national forests hereinafter designated, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved for use of the Forest Service, Department of Agriculture, for use as recreation areas and a roadside zone:

WILLAMETTE MERIDIAN

SNOQUALMIE NATIONAL FOREST

North Fork Crossing Recreation Area:
T. 28 N., R. 11 E.,
Sec. 20, lots 1, 2, 5, and Mineral Survey No. 216.
The areas described contain 85.03 acres.
Troublesome Creek Recreation Area:
T. 28 N., R. 11 E.,
Sec. 21, NW¼NE¼SW¼, S½N½NW¼SW¼, and N½S½NW¼SW¼.
The areas described contain 30 acres.
Bear Creek Falls Recreation Area:
T. 28 N., R. 11 E.,
Sec. 22, E½SW¼SW¼, SE¼SW¼, and S½SW¼SE¼;
Sec. 27, N½NW¼NE¼, SW¼NW¼NE¼, and E½NE¼NW¼.
The areas described contain 130 acres.
San Juan Recreation Area:
T. 28 N., R. 11 E.,
Sec. 26, N½NW¼.
The area described contains 80 acres.
Deception Creek Recreation Area:
T. 26 N., R. 12 E.,
Sec. 25, SE¼NE¼, E½SW¼NE¼, and N½N½NE¼SE¼.
T. 26 N., R. 13 E.,
Sec. 30, lot 2 and N½ of lot 3.
The areas described contain 134.45 acres.

MT. BAKER NATIONAL FOREST

Mt. Baker State Highway Zone
T. 39 N., R. 7 E.,
Sec. 1, lots 1, 2, 3, 4, 5, and 6;
Sec. 2, lots 1, 2, 3, and 4;
Sec. 3, lots 2, 4, 5, and 6;
Sec. 4, lots 2, 4, 6, 7, 8, and W½SW¼;
Sec. 5, E½ of lot 1;
Sec. 8, N½NW¼NE¼.
T. 40 N., R. 7 E.,
Sec. 33, S½S½;
Sec. 34, S½S½;
Sec. 35, S½SE¼;
Sec. 36, lots 1, 2, 3, and 4.
T. 39 N., R. 8 E., unsurveyed,
Sec. 2, N½N½;
Sec. 3, NE¼NE¼;
Sec. 6, NW¼NW¼;
Sec. 25, E½E½.
T. 40 N., R. 8 E. (unsurveyed except for sec. 36),
Sec. 31, NW¼SW¼, S½SW¼, SE¼, exclusive of patented mining claims;
Sec. 32, N½S½, SW¼SW¼, exclusive of patented mining claims;
Sec. 33, SW¼NW¼ and N½S½;
Sec. 34, N½SW¼, SE¼SW¼, NW¼SE¼, and S½SE¼;
Sec. 35, SW¼SW¼ and SE¼SE¼;
Sec. 36, lots 1, 2, 3, 4, 5, 6, 7, and N½SE¼.
T. 39 N., R. 9 E., unsurveyed,
Sec. 5, SW¼SW¼;
Sec. 6, SW¼NE¼, NW¼, N½SE¼, and SE¼SE¼;
Sec. 7, NE¼NE¼;
Sec. 8, W½ and SW¼SE¼;
Sec. 17;
Sec. 18, S½NE¼ and SE¼;
Sec. 19, E½;
Sec. 20, NW¼;
Sec. 30, N½.

T. 40 N., R. 9 E.,
Sec. 31, lots 3, 4, 5, 6, and 7.

The areas described contain approximately 5,230 acres.

This order shall be subject to the existing withdrawal of the lands for power purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7539; Filed, Sept. 12, 1957; 8:54 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 57-975]

[Rules Amdt. 9-14]

PART 9—AVIATION SERVICES

RELAXING OF AIRCRAFT RADIO STATION IDENTIFICATION REQUIREMENTS

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 5th day of September, 1957;

The Commission having under consideration amendment of Part 9—Aviation Services to relax identification requirements applicable to aircraft radio stations; and

It appearing that the Civil Aeronautics Administration (CAA) has requested that the Commission review existing aircraft identification procedures with a view to shortening the average time involved in completing air-to-ground contacts with CAA control towers and other facilities; and

It further appearing that the CAA request is justified by the heavy loading of air traffic control channels currently experienced in the vicinity of terminal areas; and

It further appearing that the Commission's rules now in force permit aircraft stations to identify, after the initial call, by use of the last three characters the aircraft registration number, provided the practice is first inaugurated by the ground station operator; and

It further appearing that air-to-ground contacts could be expedited by permitting two-character identification in lieu of three-character identification; and

It further appearing that conversion to two-character identification would not adversely affect aircraft safety; and

It further appearing that two-character aircraft radio station identification in the manner herein ordered is consistent with Chapter VII, Article 19 of the Atlantic City Radio Regulations (1947); and

It further appearing that issuance of Notice of Proposed Rule Making pursuant to section 4 (a) of the Administrative Procedure Act would unnecessarily delay the timely adoption of the amendment herein ordered, and would not therefore serve the public interest; and

It further appearing that since the amendment herein ordered imposes no new requirement on any applicant or licensee, but rather relieves existing restrictions, it may be made effective less than 30 days after publication as provided in section 4 (c) of the Administrative Procedure Act; and

It further appearing that authority for this Order is contained in sections 303 (o), (p), and (r) of the Communications Act of 1934, as amended:

It is ordered, That, effective September 20, 1957, Part 9 of the Commission's rules governing Aviation Services be amended as set forth below.

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

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

Amend Part 9—Aviation Services as indicated below;

Amend § 9.191 (a) (3) to read as follows:

(3) When use is made of the aircraft registration number, the full number must be given upon the initial call of each continuous series of communications. In other communications in each series, the aircraft station may use an abbreviated identification consisting of the last two characters of the aircraft registration number if the practice is initiated by the ground station operator.

[F. R. Doc. 57-7513; Filed, Sept. 12, 1957; 8:50 a. m.]

[Docket No. 12066; FCC 57-974]

[Rules Amdt. 16-18]

PART 16—LAND TRANSPORTATION RADIO SERVICES

POLICY GOVERNING THE ASSIGNMENT OF FREQUENCIES; FREQUENCY COORDINATION

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of September 1957;

The Commission having under consideration amendment of its rules governing the Land Transportation Radio Services (1) to require each application for new radio facilities or for a change in the assigned frequency of an existing facility, in all cases where a choice of frequencies exists, to clearly indicate to the Commission the basis upon which a particular frequency has been selected and that the applicant has in fact coordinated that frequency selection in some definite manner; (2) to clearly indicate that licensees are expected to resolve their own interference problems; and (3) to specifically provide that, in the event they are unable to do so, the Commission may specify a time-sharing arrangement in addition to placing limitations on such things as station transmitter power, antenna height, hours of operation or geographical area of operation, as may otherwise be necessary; and

It appearing that the Commission on June 21, 1957 adopted a notice of proposed rule making in this matter which was published in the FEDERAL REGISTER of June 28, 1957 (22 F. R. 4582) in accordance with section 4 (a) of the Administrative Procedure Act; and

It further appearing that the period in which interested persons were afforded an opportunity to submit comments with respect thereto has expired; and

It further appearing that comments in support of the Commission's proposal have been filed by the Association of American Railroads, the Southern California Radio Taxicab Association, and the Joint ATA-NATO Radio Committee, and that no objection or adverse comments with respect to the above-mentioned proposal have been received; and

It further appearing that the Commission, on its own motion, desires to clarify the wording of the amendment of § 16.8 (a) to more accurately express the original intent; and

It further appearing that the public interest, convenience and necessity will be served by the amendments herein ordered and that authority therefor is contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended;

It is ordered, That effectiye October 15, 1957, Part 16 of the Commission's rules is amended as set forth below.

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

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

1. Amend paragraph (a) of § 16.8 to read as follows:

§ 16.8 *Policy governing the assignment of frequencies.* (a) The frequencies which normally may be assigned to stations in any one of the several Land Transportation Radio Services are listed in the applicable subparts of this part. Each frequency or band of frequencies thus listed is available on a shared basis only and will not be assigned for the exclusive use of any licensee. All applicants and licensees in these services shall cooperate in the selection and use of the frequencies in order to minimize interference and obtain the most effective use of their radio facilities. In the event of interference between stations, the licensees of the stations involved are expected to resolve such interference problems by mutually satisfactory agreement. If the licensees are unable to reach such an agreement the Commission, at its discretion, among other things, may specify a time sharing arrangement, or may limit the transmitting power, antenna height, and hours or area of operation of the stations concerned.

2. Add the following new section:

§ 16.9 *Frequency coordination.* Except for applications in the Automobile Emergency Radio Service proposing to use a frequency made available under provisions of § 16.503 (b), each application requesting assignment of a fre-

quency not currently authorized for use by that station shall be accompanied by a statement as evidence that applicant is aware of and has complied with the requirement that he cooperate with other licensees in the selection of a frequency. This statement may be submitted in any one of the following forms, but any recommendations submitted in connection therewith are purely advisory in character and cannot be considered as binding upon the Commission.

(a) A statement, including an engineering survey if necessary, which sets forth the technical and other considerations in support of the selection of the particular frequency requested. The Commission expects that the applicant will notify the licensees of all known stations in the same service located within the local interference range of the proposed station location and operating on the frequency proposed to be used by the applicant, of the applicant's intention to request that frequency.

(b) A statement from a local frequency advisory committee of users suggesting a specific frequency or commenting upon the frequency which in its opinion would result in the least interference being caused to existing stations in the area by the proposed station. In the event the frequency recommended in accordance with the above is not in the frequency band desired by the applicant, the Committee should also indicate a frequency in the band desired by the applicant which in its opinion would result in the least amount of interference and would therefore appear to be most suitable. Such statements may appropriately include comments on other technical factors such as power, antenna height and other limitations which may serve to mitigate any possible interference. The frequency advisory committee must be so organized that it is representative of the industry eligible for radio facilities in the service concerned in the area in which the committee functions and for which recommendations are made.

(c) A recommendation from a frequency coordinating committee, or other appropriate representative of a national association composed of a majority of persons eligible for radio facilities in the particular service involved.

[F. R. Doc. 57-7514; Filed, Sept. 12, 1957; 8:50 a. m.]

TITLE 50—WILDLIFE

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

Subchapter C—Management of Wildlife Conservation Areas

PART 17—LIST OF AREAS

NATIONAL WILDLIFE REFUGES

CROSS REFERENCE: For order reserving certain lands as an addition to the Tennessee National Wildlife Refuge (§ 17.3) see Public Land Order 1482 in the Appendix to Title 43, Chapter I, *supra*.

Subchapter F—Alaska Commercial Fisheries

PART 119—SOUTHEASTERN ALASKA AREA, EASTERN DISTRICT, SALMON FISHERIES

ADDITIONAL FISHING TIME

Basis and purpose. On the basis of good escapements of chum salmon in the Taku-Port Snettisham section of the Eastern district, it has been determined that some additional fishing time can be permitted.

Therefore, effective immediately upon publication in the FEDERAL REGISTER, § 119.3 is amended in paragraph (a) in the second sentence of text by deleting "12 o'clock noon Thursday" and substituting in lieu thereof "12 o'clock noon Friday."

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237; 5 U. S. C. 1001 et seq.)

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

A. W. ANDERSON,
Acting Director,
Bureau of Commercial Fisheries.

[F. R. Doc. 57-7585; Filed, Sept. 11, 1957; 4:29 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCE FOR RESIDUES OF MANGANOUS DIMETHYLDITHIOCARBAMATE

Pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)) the following notice is issued:

A petition has been filed by Food Machinery and Chemical Corporation, Middleport, New York, proposing the establishment of a tolerance of 7 parts per million for residues of manganous dimethyldithiocarbamate in or on apples.

The analytical method proposed in the petition for determining residues of manganous dimethyldithiocarbamate is a modification of the method of W. K. Lowen, Analytical Chemistry, Volume 23, pages 1846–1850 (December 1951).

Dated: September 6, 1957.

[SEAL] ROBERT S. ROE,
Director,
Bureau of Biological and Physical Sciences.

[F. R. Doc. 57-7510; Filed, Sept. 12, 1957; 8:49 a. m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCE FOR RESIDUES OF MONURON

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by E. I. du Pont de Nemours and Company, Wilmington, Delaware, proposing the establishment of a tolerance of 2 parts per million for residues of monuron (3-(*p*-chlorophenyl)-1,1-dimethylurea) in or on avocados.

The analytical method proposed in the petition for determining residues of monuron is the method reported in "Determination of 3-(*p*-Chlorophenyl)-1,1-dimethylurea in Soils and Plant Tissue," by W. E. Bleidner, H. M. Baker, Michael Levitsky, and W. K. Lowen, published in the Journal of Agricultural and Food Chemistry, Volume 2, pages 476–479, April 28, 1954.

Dated: September 6, 1957.

[SEAL] ROBERT S. ROE,
Director,
Bureau of Biological and Physical Sciences.

[F. R. Doc. 57-7511; Filed, Sept. 12, 1957; 8:49 a. m.]

[21 CFR Part 130]

DRUGS EXEMPTED FROM PRESCRIPTION-DISPENSING REQUIREMENTS OF SECTION 503 (b) (1) (C) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

NOTICE OF PROPOSAL TO EXEMPT CARBETAPENTANE CITRATE PREPARATIONS FROM PRESCRIPTION-DISPENSING REQUIREMENTS

Notice is given that the Commissioner of Food and Drugs, in accordance with the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 701 (a); 65 Stat. 649, 52 Stat. 1052, 1055; 21 U. S. C. 353 (b) (3), 355 (c), 371 (a)) and the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR, 1956 Supp., 130.101 (b)) hereby offers an opportunity to all interested persons to submit their views in writing to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER on the proposed amendment set forth below:

It is proposed to amend paragraph (a) of § 130.102 *Exemption for certain drugs limited by new-drug applications to pre-*

scription sale by adding the following new subparagraph:

Carbetapentane citrate (2- (2-diethylaminoethoxy) - ethyl - 1 - phenylcyclopentyl-1-carboxylate citrate) preparations meeting all the following conditions:

(i) The carbetapentane citrate is prepared, with or without other drugs, in tablet or other dosage form suitable for oral use in self-medication, and containing no drug limited to prescription sale under the provisions of section 503 (b) (1) of the act.

(ii) The carbetapentane citrate and all other components of the preparation meet their professed standards of identity, strength, quality, and purity.

(iii) If the preparation is a new drug, an application pursuant to section 505 (b) of the act is effective for it.

(iv) The preparation contains not more than 25 milligrams of carbetapentane citrate per dosage unit; or if it is in liquid form, not more than 1.5 milligrams of carbetapentane citrate per milliliter.

(v) The preparation is labeled with adequate directions for use in the temporary relief of cough due to minor conditions in which it is indicated.

(vi) The dosages recommended or suggested in the labeling do not exceed: For adults, 30 milligrams of carbetapentane citrate per dose or 120 milligrams of carbetapentane citrate per 24-hour period; for children 4 to 12 years of age, 7.5 milligrams per dose or 30 milligrams per 24-hour period; for children 2 to 4 years of age, 4.0 milligrams per dose or 16.0 milligrams per 24-hour period.

(vii) The label bears a conspicuous warning to keep the drug out of the reach of children, and the labeling bears, in juxtaposition with the dosage recommendations:

(*a*) A clear warning statement against administration of the drug to children under 2 years of age, unless directed by a physician.

(*b*) Clear warning statements against use of the drug in the presence of high fever or if cough persists, since persistent cough as well as high fever may indicate the presence of a serious condition.

The proposed amendment will remove the drugs mentioned therein from the prescription-dispensing requirements of the Federal Food, Drug, and Cosmetic Act (sec. 503 (b) (1) (C), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (1) (C)). These drugs were previously limited by their new-drug applications to use under professional supervision because the scientific data establishing the toxic potential of the drugs and their intended use showed only that they were safe if used under professional supervision.

Pursuant to the regulations in § 130.101 (b) of this chapter (21 CFR, 1956 Supp., 130.101 (b)), petitions have been submitted to remove the prescription restrictions from these drugs. Evidence now available through investigation and marketing experience shows that the drugs can be safely used by the laity in self-medication if they are used in accordance with the proposed labeling. The restriction to prescription sale is no longer necessary for the protection of the public health.

This action in removing the prior restriction limiting these drugs to prescription sale is taken under the authority of the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (3), 355 (c)), which provides for and requires the removal of such restrictions if they are not necessary for the protection of the public health.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interprets or applies secs. 503 (b) (3), 505 (c), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (3), 355 (c))

Dated: September 6, 1957.

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

[F. R. Doc. 57-7512; Filed, Sept. 12, 1957; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 961]

[Docket No. AO-160-A18]

MILK IN PHILADELPHIA, PA., MARKETING AREA

EXTENSION OF TIME FOR FILING EXCEPTIONS TO RECOMMENDED DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR, Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area, which was issued on August 23, 1957 (22 F. R. 6920; F. R. Doc. 57-7060) is hereby extended to September 30, 1957. Such exceptions must be filed with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business as of this date.

Dated: September 10, 1957.

[SEAL] ROY W. LENNARTSON.
Deputy Administrator.

[F. R. Doc. 57-7544; Filed, Sept. 12, 1957; 8:56 a. m.]

[7 CFR Parts 1002, 1009]

[Docket No. AO-268-A3]

MILK IN GREATER WHEELING AND CLARKSBURG, W. VA., MARKETING AREAS

RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENTS, AND TO ORDERS

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 the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed marketing agreements and proposed orders amending the orders regulating the handling of milk in the Greater Wheeling, West Virginia, and Clarksburg, West Virginia, marketing areas. Interested parties may file written exceptions to this decision with Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreements and orders were formulated was conducted at Clarksburg, West Virginia, on March 26, 1957, and at Wheeling, West Virginia, on March 27-28, 1957, pursuant to notice thereof which was issued on March 6, 1957 (22 F. R. 1575). A number of proposals and much of the testimony on the record were directed toward similar amendments to both orders. For this reason the issues on the record are herein considered as bearing upon the need for amendment of either or both orders except in those instances where the proposals were specifically intended for only one of the orders.

Material issues. The material issues of record relate to:

1. The marketing area:

(a) Whether Kingwood, West Virginia, should be deleted from the Clarksburg marketing area;

(b) Whether Monroe County, Ohio, the remainder of Guernsey County, Ohio, and the township of Union in Muskingum County, Ohio, should be added to the Greater Wheeling marketing area.

2. Provisions affecting whether a plant qualifies as a pool plant, and regulation of nonpool plants.

3. Definition of "producer" with respect to diversion.

4. The price for Class I milk, including supply-demand adjustment provisions and seasonal price differentials in both markets.

5. The price for Class II milk.

6. Classification of various special types of receipts and disposition.

7. Definition of "base milk", changes in months in which producers earn base, and months in which producers are paid for base.

8. Location differentials.

9. Certain conforming and clarifying changes of order language.

1. *Marketing Area*—(a) *Clarksburg marketing area.* Kingwood, West Virginia, should be retained as part of the Clarksburg marketing area.

A handler regulated under the Clarksburg order proposed the deletion of Kingwood from the marketing area. The principal reasons advanced by the proponent for this action were to alleviate his surplus disposal problem in

flush months, and to enable him to compete more favorably with unregulated handlers for fluid sales in areas not included in the Clarksburg order. Kingwood is the largest population center in Preston County, and is the only part of the County included in the Clarksburg area. It is one of several population centers included in the Clarksburg marketing area which are separated by intervening rural territory from the main part of the area.

Nearly all fluid sales in Kingwood (not including raw Grade A milk sold by local producer-handlers) are made by four handlers regulated under either the Clarksburg or Wheeling order. Two of these handlers, who opposed the deletion of Kingwood, testified that their firms each distribute about 35 percent of the total fluid sales in Kingwood. A third regulated handler has only a fractional share of the market; and the fourth, the proponent handler, distributes about 30 percent. If Kingwood were deleted, the proponent handler would become nonregulated while the other three handlers, who market approximately 70 percent of the fluid milk sold in the town, would remain regulated.

Approximately 70 percent of the proponent handler's sales are outside the marketing area but within Preston County. His competition within the nonregulated portion of the County consists of regulated handlers and an unregulated handler whose plant is located in Cumberland, Maryland. The evidence indicates that this unregulated handler purchases milk at less than order prices. The proponent testified that competition was severe in the unregulated portion of the County, particularly in Terra Alta. It was indicated, however, that his sales, both in and outside the marketing area, have remained relatively constant. Deletion of Kingwood from the marketing area would expose regulated handlers who now provide about 70 percent of the sales in Kingwood to the unregulated competition of the proponent and other handlers.

It is concluded the proposal should be denied.

(b) *Greater Wheeling marketing area.* The Greater Wheeling marketing area should be expanded to include Monroe County, Ohio. The remainder of Guernsey County, Ohio, and Union Township in Muskingum County, Ohio, should not be added to the marketing area.

Some of the handlers under the Wheeling order proposed that Monroe County, Ohio, be added to the marketing area. Such enlargement of the area was supported on the basis of uniformity of health standards, and that the County is largely served by Wheeling handlers.

Monroe County was not included in the marketing area at the time of the order's promulgation. The evidence at the original hearing on the proposed order was insufficient to justify its inclusion.

Monroe County, which is contiguous to the presently defined marketing area, had a population of 15,362, according to the United States Census of 1950. Since this census, there has been a marked degree of industrial expansion within the area. This industrialization of Monroe County and its concomitant population growth have transformed the County from one of predominantly rural characteristics to one of more urban characteristics.

Regulated handlers now market a substantial majority of the total fluid distribution within Monroe County. There are 13 known retail and/or wholesale distributing routes within the County. Of these, 10 originate from plants regulated under the terms of the Wheeling order and 3 originate from 3 unregulated plants located outside of Monroe County and outside the marketing area.

A Grade A health ordinance has recently been adopted by the County. Milk plants in the County and dairy farms serving such plants are subject to health standards similar to those enforced in the communities presently comprising the Wheeling marketing area.

No evidence was submitted in opposition to the inclusion of Monroe County. Handlers who might be brought under regulation did not oppose this expansion.

Because of the similarity of health standards in effect in Monroe County with those in effect at the present marketing area, and because handlers regulated under the terms of the Wheeling order control the large majority of fluid sales within the County, it is concluded that Monroe County should be part of the marketing area.

Certain Wheeling handlers proposed that the remainder of Guernsey County, Ohio, not now in the marketing area, and Union Township in Muskingum County, Ohio, be added to the Greater Wheeling marketing area. This proposal was supported on the basis of similar health requirements, and that regulated handlers have substantial business in these proposed areas, but they claim they have lost business to unregulated handlers.

Regulated handlers have only a minor share of the fluid milk distributed in Union Township and that part of Guernsey County not already included in the marketing area. There are about 25 fluid distribution routes within this area, and of these, 9 are operated by handlers regulated under the Wheeling order.

These additions to the marketing area were opposed by two unregulated handlers whose plants are located in Zanesville, Ohio, which is outside the proposed area. These plants would become pool plants if these proposed areas were added. Wheeling handler operations do not extend to the Zanesville market.

Dairy farmers who deliver to plants which might be brought under regulation by such expansion of the area were not represented at the hearing. The association representing the majority of producers in the Greater Wheeling market opposed these additions to the area because of problems involved in regulated handlers with their principal business elsewhere.

Although addition of the proposed areas would no doubt reduce the problem of competition for some regulated handlers, it appears the same type of problem would be transferred to newly regulated handlers.

It is concluded that the remainder of Guernsey County and Union Township in Muskingum County should not be added to the marketing area.

2. *Pool plant qualifications and payments on nonpool milk.* The definitions of "pool plant", "distributing plant", and "supply plant" should be revised.

An association representing producers in both markets requested that the definition of "distributing plant" be changed to increase the required percentage of milk distributed on routes to 55 percent in the months of April, May and June, and 65 percent in other months. These percentages would be based upon the receipts at the plant from producers. The order now requires route distribution of 45 and 55 percent, in the same months, based on combined receipts from producers and other pool plants. An accompanying proposal made by this association was to eliminate the 10-day limit which applies to diversion of a producer's milk during the months of August through February, so that unlimited diversion would be permitted during any month of the year. This latter proposal was conditioned, however, on adoption of the higher percentage requirements for pool distributing plants. This association proposed also that the order should allow for "diversion" of milk between pool plants, so that the "diverted" producers would remain on the payroll of the diverting plants, and not appear in the receipts or pool plant qualification computations of the plant to which they were diverted. This, it was indicated, would facilitate movement of milk to handlers temporarily in need of additional supplies and would help in handling seasonal surplus.

Testimony given by handlers with respect to pool plant qualifications opposed changing the present percentage figures for distributing plants, but did favor basing these percentages on only receipts of milk from producers, and the elimination of the 10-day limit on diversion. One handler representative proposed that any plant which distributes more than 600 pounds of milk per day on routes in the marketing area should be a pool plant.

The qualifications for pool plants in these two orders are generally described within the definitions for "pool plant," "approved plant," "distributing plant," and "supply plant." A pool plant is defined as meaning a "distributing plant" or a "supply plant."

The pool plant qualification requirements now in the order have been designed to include in the market-wide pool those plants which have a substantial association with the market and whose business is primarily that of supplying fluid milk markets. For the months of July through March, a "distributing plant" is defined as having 55 percent of its receipts of milk (from producers and in the form of fluid milk products from other pool plants) distributed on routes inside or outside the marketing area. A seasonally lower requirement of 45 percent in the months of April, May and June, reflects the natural change in the level of a plant's utilization caused by a higher level of production in spring and early summer. A distributing pool plant must have 5

percent of such receipts distributed on routes in the marketing area. Nondistributing plants may qualify as pool plants in the months of September through January by shipping 55 percent of their receipts of producer milk to distributing plants. Such plants are called "supply plants." Any supply plant meeting the requirements for the months of September through January may continue as a pool plant through the following August. The market is not now served by any supply plants.

The definition of "pool plant" should take account of the variations in types of plant operations. One special type of plant which must be considered is a plant which has a substantial distribution of milk in the marketing area and receives its entire supply, or most of its supply, from a plant(s) regulated under another order. If this special type of plant is not regulated under any other order, it is necessary that it be regulated in some manner under one of these orders, so as to assure appropriate accounting for all milk in such plant. Pool plant qualification of distributing plants is not affected under present order provisions by receipts from other Federal order plants, since such receipts are not included in the computation. This type of receipt is an important factor, however, in market supply. On the other hand, receipts of milk from other pool plants under the same order (Wheeling or Clarksburg) do affect pool plant qualification.

Another type is a plant which fails to meet the pool qualifications either as a distributing plant or supply plant, although most of the milk it handles is accounted for either as route distribution or shipments to other pool plants.

The problem of handling seasonal surpluses of producer milk is also affected by the pool plant definition. One handler pointed out that he was limited as to the extent to which he could accommodate other handlers in processing their surplus producer milk, because if he received a volume of milk from other pool plants such that he would make full use of his manufacturing facilities, his percentage for route distribution would fall below the minimum required for pool plants.

A pool plant definition for distributing plants should not ordinarily include plants primarily in the business of manufacturing milk products, because pooling such operations will dilute the returns to producers for Class I milk. Such an occurrence would interfere with the function of the Class I price which is to provide the incentive for producers to supply the fluid market.

The objective of preventing dissipation of returns from Class I sales to milk produced for manufacturing, may be achieved in these markets by basing the definition of "distributing plant" upon the percentage of receipts from qualified dairy farmers and supply plants sold on routes. Such a definition is adopted. Under this provision, the volume a distributing plant receives from other distributing plants, which have similarly met the percentage requirement, would not affect such a plant's qualification for pooling. Receipts from supply plants should be included in the computation, however, since such receipts are the basis upon which the milk in the supply plant becomes qualified for inclusion in the equalization pool. Additional receipts from other sources, which such plant might use for manufacturing, would not affect the value of producer milk in the pool, and would not be part of the computation.

The producer proposal to raise the percentage requirements for distributing plants should not be adopted. Such a change could cause difficulty for some plants which receive all their milk from dairy farmers, but with a percentage in Class I only slightly in excess of the current minimum. Such a change is not necessary to assure the integrity of the pooling arrangement. The percentage figures should be the same as now in the order.

It is futher concluded that for distributing plants receiving milk from qualified dairy farmers, the percentage of such receipts and receipts from supply plants sold on routes should be the basis of qualification for pooling such plants.

The present order provisions base a distributing plant's connection with the market on the requirement that distribution on routes in the marketing area amount to at least 5 percent of receipts from producers and fluid milk products received from other pool plants. In view of the aforementioned possible variations in the make-up of a plant's receipts, a better measure of connection with the market would be the proportion of the plant's total route sales which are in the marketing area. It is concluded that a pool distributing plant should have 5 percent of its route sales in the marketing area.

It is possible that some plants with substantial distribution business in the marketing areas may not receive any milk from qualified dairy farmers. Such plants may obtain their supply from pool plants under the orders for the market in which they sell, from plants under other orders, or from plants which do not qualify as pool plants under any order. Under present provisions of either order, if such plants sell on routes in the marketing area an amount of milk equal to or exceeding 5 percent of their receipts from pool plants, they then qualify as pool plants. For purposes of uniformity and effectiveness of the application of regulation, it is necessary that such plants continue to be regulated as pool plants, with the modification, however, that the 5 percent be the minimum proportion of their Class I route sales which are in the marketing area.

The proposal to include in the pool any plant which distributes in the marketing area more than 600 pounds of milk per day would bring under regulation any plant, however large its business outside the area, which had such a volume of business inside the area. Such a method of regulation appears to be unnecessary to achieve effective regulation in view of other provisions, particularly in view of the pool plant requirements previously discussed. Furthermore, any advantage which a nonpool handler might have with respect to procurement and sales outside the marketing area is removed with respect to sales within the marketing area by reason of payments required to be made into a producer-settlement fund.

The definition of "supply plant" should be modified to include the type of plant which supplies market Class I needs both through direct distribution and shipments to pool distributing plants. To allow for this type of plant, the sales by distribution in the marketing area should be added to the volume of shipments to other pool distributing plants in determining whether 55 percent of the receipts of producer milk at such plant during the months of September through January is used in serving the fluid market.

The definitions of "distributing plant" and "supply plant" should be clarified by eliminating the term "receipts of producer milk" and substituting therefor "receipts from dairy farmers meeting the inspection requirements specified in the definition of 'producer'."

The order provisions which determine whether or not a plant shall be included in the pool for the respective market are related to the provisions affecting use of other source milk by pool plants and sales of milk in the marketing area by nonpool plants. On the basis of previous hearing records, it has been found necessary to provide that certain payments into the market pool be made on such other source milk. For these reasons, proposals with respect to compensatory payments on other source milk are considered in connection with the evidence on pool plant qualifications.

A handler representative proposed the deletion of the order provisions which set aside the requirement of compensatory payments on other source milk in any month in which total deliveries by producers are less than 110 percent of all handlers' Class I sales. The witness supported this proposal for the Clarksburg market on the basis that handlers do not attempt to maintain a full supply for year around needs even if additional producers are available, but prefer to depend upon other source milk to supplement their supply of producer milk. As a result, producer milk could be less than 110 percent of handlers' Class I sales, although the supply situation is not fundamentally so short that handlers should be excused from compensatory payments.

However, while such a condition conceivably could exist, the record did not indicate that any handlers are purchasing significant volumes of nonregulated other source milk. Nor is there evidence that handlers are unwilling to receive additional supplies of milk from dairy farmers who are desirous of shipping to the Clarksburg market. It is therefore concluded that this proposal should be denied.

From time to time, some plants may qualify as pool plants under more than one Federal order. The provisions in the Wheeling and Clarksburg orders which exempt such plants from regulation as pool plants should be revised for clarification, as described in the ap-

plicable provisions, and to provide, for determination by the Secretary, as to the order which should regulate when a plant is eligible for regulation under more than one order.

The producer request for specific provision with respect to "diversion" of producers between pool plants should be dealt with in terms of transfers of milk between plants. For this purpose, language should be included in the provisions dealing with classification of transfers, to indicate that transfers made by direct movement from the producer's farm to the transferee plant for the account of the transferor plant, shall be classified in the same manner as milk transferred as bulk shipments. Handlers who cause milk to be moved in this manner to another handler's plant should be responsible, under the orders, for reporting the receipt and disposition of such milk, and should be responsible for payment of the producer whose milk is so moved. Location differentials with respect to such milk should be applied at the point where the milk is physically received at a handler's plant although such receipt, for other purposes, may be reported at the plant from which the transfer is made.

3. *Producer diversion to nonpool plants.* No change should be made in the provisions affecting diversion of producers to nonpool plants, except in the case where such nonpool plant is regulated pursuant to another order.

A proposal was made by producers to delete the limitation to ten days of any one month during the months of August–February for diversion of a producer to a nonpool plant. This proposal was made conditional upon adoption of a proposed increase in percentage of utilization requirement in the "distributing plant" definition. The latter proposal is not adopted herein.

Handlers also favored deletion of the ten-day limit on diversion in the months mentioned.

The definition of "producer" in the order allows diversion of a producer any day during the months of March through July, and not more than ten days in any other month. Such a limit is needed to establish a producer's substantial association with the market in the months when the supply-sales relationship is closest. The present allowance for diversion is ample. The proposal is denied.

It is possible that a nonpool plant may be a plant regulated under another order. In this case, the regular diversion provision contained in the definition of "producer" should not apply, and the dairy farmer should not be considered to be a producer with respect to milk so delivered to a plant under another order. This will avoid conflict in regulations between the two orders.

4. *Class I price.* No change should be made in the Class I price formulas or in the supply-demand adjustments used in the Wheeling and Clarksburg orders.

A proposal was made by a producer association that the Class I prices in both the Wheeling and Clarksburg markets be increased 35 cents per hundredweight in each month. Another proposal, made by a representative of some producers in the Clarksburg area, requested that the Class I price for that area be 45 cents higher than the present price for the months of August through February, and that this level of prices be used in every month without seasonal changes. A proposal was also made for both markets which would modify the supply-demand adjustment so as to give some effect to the combined supply-sales relationship in the two markets, rather than depending entirely on the similar relationship in the Cleveland and Akron-Stark County markets as now provided in these orders.

The proposals to increase the level of the Class I prices in these markets were based largely on the increases in costs of production experienced by dairy farmers and the low margin by which supplies of producer milk cover Class I sales in some months. It was indicated in this connection that some handlers have had to supplement their producer milk supplies with milk from other sources to meet Class I needs.

The supply situation for both the Wheeling and Clarksburg markets is affected by the supply and demand situations in neighboring markets. This is particularly true with respect to the Cleveland and Akron-Stark County markets, because handlers in those markets distribute milk directly in the Greater Wheeling marketing area. Almost 10 million pounds of Class I milk, representing more than 10 percent of the total Class I sales in the market, were distributed directly in the Wheeling market during 1956 by handlers regulated under these other orders. It may be recognized that recent changes in the operations of one of the handlers, in this connection, could result in a lesser volume of Cleveland and Akron-Stark County milk in the Wheeling market in 1957, but nevertheless, the direct distribution by other order handlers may be expected to continue to be a substantial portion of all sales.

With respect to the Clarksburg area, an important intermarket relationship is established by the fact that a substantial volume of the distribution is from a Wheeling order pool plant. Some Tri-State order milk is also sold in the Clarksburg market.

The dependency of the Wheeling and Clarksburg handlers upon supplies from the other markets mentioned is further shown both by purchases on a regular basis and occasional purchases to supplement producer milk in months of short supply.

The principal non-Federal order market which competes for supplies in the same areas as the Wheeling and Clarksburg markets is the Pittsburgh market. The supply areas also overlap with the Youngstown market.

Class I prices under the Wheeling and Clarksburg orders are established in a manner which maintains a close relationship with prices in the Cleveland and Akron-Stark County markets. The Wheeling price is 10 cents higher than the Cleveland price and 15 cents higher than the Akron-Stark County price. This exact relationship is not maintained in every month because the Wheeling and Clarksburg markets use the Cleveland supply-demand adjustment but apply it one month later. The Clarksburg price is 25 cents over the Wheeling price. These intermarket price relationships are maintained season by season. The seasonally lower level of the Wheeling market Class I differential, $1.50, applies in the months of February through July which is the same as the period of seasonally lower price levels of the Cleveland and Akron-Stark County markets. In other months, the Class I price differential is $1.95.

The price differentials between these and the other Federal order markets within the region generally offset the cost of moving milk from the other markets to Wheeling or Clarksburg. The fact that milk continues to move from the other markets into these markets is an indication that these price differentials are sufficient to cover the cost. Any increase in the general level of Class I prices in Wheeling and Clarksburg would give an added incentive for handlers in the other markets to sell milk in these markets.

The supply of producer milk in some months exceeds Class I sales of pool plants by only a small margin. In the shortest months, this margin may be as low as 5 to 7 percent. However, this supply-sales relationship cannot be considered independently from the supply situations in neighboring markets. As mentioned elsewhere in this decision, many of the handlers do not have adequate facilities for processing into manufactured products regular and seasonal supply reserves. In this situation, there is a tendnecy for such handlers to carry a relatively short supply in relation to their Class I sales and also a tendency to depend on the larger neighboring markets for supplemental supplies. Consequently, in these particular markets, the percentage of producer milk classified as Class I does not accurately portray the whole supply-sales relationship for the market.

In these circumstances, it is necessary to judge the appropriateness of the level of Class I prices in the light of the price in effect in nearby Federal orders. This situation is, in fact, recognized in the use of the Cleveland supply and demand adjustment for these markets.

Prices in these markets should continue to be related closely to the prices in other major neighboring markets. It is concluded that the Class I prices in the Wheeling and Clarksburg markets should not be increased under present conditions.

Many of the considerations decided with respect to the general level of Class I prices in the Wheeling and Clarksburg markets also bear on the proposal to change the supply-demand adjustment. The producer proposal would allow for continued use of the Cleveland supply-demand adjustment except when producer milk in the two markets is less than 115 percent of producer milk in Class I, or more than 145 percent of producer milk in Class I. Under the proposal, 3 cents per hundredweight would be added to the Class I price for

each percent that producer deliveries are less than 115 percent of producer milk in Class I and conversely, 3 cents per hundredweight would be subtracted for each percent that producer milk exceeds 145 percent of producer milk classified as Class I.

The producer proposal would have resulted in plus price adjustments several months in which the supply-demand adjustment borrowed from the Cleveland order would have been negative. On the basis of the preceding findings and conclusions, such a widening in the intermarket differentials is not necessary to assure an adequate supply for the Wheeling and Clarksburg markets. Furthermore, such a widening of intermarket differentials would give Wheeling and Clarksburg handlers an incentive to carry an even shorter supply of producer milk and depend to a greater extent for reserves on supplies in other markets. An additional difficulty in using the type of supply-demand adjustment proposed is that the volume of producer milk classified as Class I does not give an adequate indication of the volume of Class I sales by all handlers operating in these markets. It is concluded that the present arrangement under which the Wheeling and Clarksburg Class I prices are adjusted by the supply-demand adjustment effective in the previous month in the Cleveland and Akron-Stark County markets should be continued. That supply-demand adjustment is based on the combined supply-sales relationship under the Cleveland and Akron-Stark County orders.

5. *Class II price.* The Class II price in all months should be the basic formula price.

The Class II prices under the Wheeling and Clarksburg orders are calculated by identical formulas. In each market, the Class II price is the basic formula price, subject to the exception, however, for the months of April, May and June, that this formula is reduced 20 cents per hundredweight if the supply-demand adjustment affecting the Class I price is negative. Aside from this exception, the Class II price is thus the highest of three alternative values for manufacturing milk: the average of the paying prices of Mid-west condenseries, a butter-powder formula, and a butter-cheese formula.

The Class II price formulas in these orders result in the same level of prices for surplus producer milk as in the nearby Federal order markets of Cleveland and Akron-Stark County, except for the possibility of the 20-cent deduction in these markets in the April-June period, and the 30-cent higher price for milk used in cottage cheese in the Cleveland and Akron-Stark County orders. The Cleveland and Akron-Stark County orders do not contain the butter-cheese formula as do the Wheeling and Clarksburg orders, but the butter-cheese formula has consistently been the lower of the three alternatives and, thus, has not been effective in establishing prices.

For the months of April, May and June 1956, the 20-cent per hundredweight deduction was effective in the Wheeling and Clarksburg markets because of a negative supply-demand factor in April and by order amendment for May and June 1956.

Producers proposed that the Wheeling and Clarksburg orders be amended to provide regular seasonal changes in the Class II price formulas without any contingency features depending on the supply-demand adjustment. They requested, however, that the annual average level of the price should be maintained at the average level of the basic formula price. The general basis given for this proposal was that there is a need for seasonal reduction of prices in the high production months of the spring so as to facilitate orderly marketing of producer milk, and that maintenance of the average annual level is necessary to return full value of milk to producers.

Handler witnesses requested that a 20-cent reduction during the months of April, May and June be a regular part of the Class II price formula, and that no compensating amount be added during other months of the year. Handlers maintained that the return obtainable in marketing the seasonal surplus during this three-month period is considerably below the basic formula price level.

The objectives in establishing prices for reserve and surplus producer milk under order regulation are related to the problem of establishing appropriate prices for Class I milk. If the price for milk in Class II is set at too low a level, the handling of milk for manufacture will become, in itself, an attractive business such that handlers will be encouraged to develop supplies solely for manufacturing. Particularly in a market-wide pool, this could result in a general increase of handlers' supplies, and also in the entrance into the market of new plants to take advantage of this situation. The effect of these developments which could take place over a period of time would be to dissipate the higher value contributed to the market-wide pool by Class I sales. Inasmuch as the Class I price is designed to attract an adequate but not excessive market supply of milk for fluid use, such development of supplies in excess of ordinary reserve requirements of handlers tends to defeat this purpose.

Handlers normally carry a supply which includes some reserve over the actual volume of Class I sales to allow for variations in production and sales. The Class II price should be established at a level low enough to allow for the orderly disposition of such reserve milk in manufacturing uses, but should not be so low as to encourage handlers to develop excessive supplies for manufacturing purposes, as explained previously.

The volume of Class II producer milk and other source fluid milk products used for manufacturing by Wheeling handlers in 1956 was approximately 34½ million pounds, of which about 26.4 million pounds was producer milk and the remainder was accounted for as other source milk. In the Clarksburg market, the volume of Class II milk reported by handlers for the year 1956 was 8.7 million pounds, of which producer milk accounted for about 7.5 million pounds and other source milk for the remainder. Handlers in both markets used milk on a year around basis in the manufacture of cottage cheese. Some handlers in both markets have regular ice cream manufacturing operations. The manufacture of butter also represents a lesser but relatively stable year around disposition of producer butterfat. The volume of milk in these various Class II items throughout the year indicates that they are part of the continuous, regular business of some of the handlers in these markets.

The proposals for seasonal reductions in the Class II price formula related particularly to the April, May and June quarter. For the Wheeling market, the percentages of producer milk reported in Class II in these months of 1956 were 17.8, 27.7, 25.0 percent, respectively. In the Clarksburg market, the corresponding percentages were 7.6, 21.4, and 20.6 percent. The lowest percent of Class II in any month of 1956 was, for Wheeling, about 11.0 percent in January, and for Clarksburg, 4.8 percent in March.

Other source milk used by Wheeling handlers in manufacturing operations also shows a seasonal pattern. The approximate volumes of other source milk classified as Class II during the several calendar quarters of 1956 were as follows: 0.7 million pounds for January-March, 2.8 million pounds for April-June, 2.5 million pounds for July-September, and 1.8 million pounds for October-December. From this analysis it is apparent that at least for some handlers plant capacity is not a problem in disposing of producer milk in Class II uses.

Handlers contended that without the 20-cent deduction during the months of April, May and June, the Class II price would be unduly high in relation to prices paid by nearby unregulated manufacturing plants. The only paying prices of an unregulated plant entered in the record, however, were prices paid by United Dairies at Barnesville, Ohio. This plant, from time to time, has served as a principal outlet for producer Class II milk. For the months of November 1955 through March 1956, the prices at this plant were lower than the order Class II price by 6 to 16 cents per hundredweight. For the months of April, May and June 1956, when the 20-cent deduction was effective in the Class II price formula, the Barnesville plant's prices were 3 to 4 cents lower than the order price. In the months of November 1956 through February 1957, however, the prices at the Barnesville plant were 2 to 7 cents higher than the order price.

The dependency of changes in the Class II price upon the supply-demand factor is no longer desirable. Uncertainty as to the outcome of such a relationship could occur at times when it would be difficult to make timely changes if such changes were needed. Also, changes in the supply-demand adjustment, which is based on data for preceding months in Cleveland and Akron-Stark County areas, may depend on a range of circumstances not directly related to the appropriate level of the Class II price for the Wheeling and Clarksburg markets.

Producers' contention for increase in the Class II formula price in months other than April, May and June would

result in prices higher than the basic formula price. The basic formula price is the highest of three representative values for milk in manufacturing uses. It was not shown by proponents that special health requirements apply to any of handlers' regular Class II uses. Under these circumstances, there is no basis for establishing a price for Class II milk in these months higher than the basic formula price.

The proposals for a seasonal reduction in the Class II price are also denied. The Wheeling and Clarksburg markets are not subject to relatively large and burdensome amounts of surplus milk in the months of April, May and June. In fact, handlers, collectively, continue to import other source milk for manufacturing in these months. In addition, the prices paid at a local manufacturing plant for ungraded milk, at least in months immediately prior to the hearing, approximated basic formula prices.

The problem of surplus disposal experienced by those handlers without sufficient facilities to manufacture the seasonal surplus of their producers should be relieved as a result of the recommended order provision whereby pooled distributing plants will not include receipts from other pooled distributing plants in determining fluid qualification percentages.

It is therefore concluded that the Class II price in all months should be the basic formula price.

The proposal to reduce the Class II butterfat differential, made by certain Clarksburg area handlers, is denied. In view of the conclusion contained in this decision relative to Class II pricing, there is no basis for further consideration of a reduction in the general level of Class II milk values. The Class II butterfat differential per one-tenth of a percent of butterfat is 0.115 times the wholesale price per pound of butter. This value is not excessive for butterfat in Grade A milk used for manufacturing purposes.

6. *Classification.* No change should be made in the classification of butterfat dumped or used for livestock feed. No change should be made in the method of classifying and accounting for nonfat solids used to fortify fluid milk products.

Certain handlers under the Clarksburg order proposed that Class II classification should be allowed for butterfat dumped or disposed of in livestock feed. Such usage was described as resulting when certain types of route returns contain butterfat not readily separable for use in other milk products.

The provisions of the orders affecting classification of such butterfat operate uniformly with respect to all handlers. Accordingly, the order provisions do not operate to the disadvantage of one handler compared to another, and are equitable. The amount of butterfat in route returns depends on the success of the handler in coordinating the volumes of milk products bottled with the volumes he can sell. Change of order provisions in the manner proposed would tend to shift the burden of any inefficiency in this matter from handlers to producers. Handlers may utilize butterfat from route returns in the manufacture of certain Class II products. In such circumstances, this butterfat will be classified as Class II utilization. If a handler accounts for butterfat in route returns as a loss, such loss is classified pursuant to the provisions applicable to shrinkage or unaccounted for milk. Classification of actual shrinkage of producer milk in Class II up to 2 percent of such receipts is allowed in the order. Such a limit has been found to be reasonable. Such a limitation serves to prevent advantage to handlers who fail to keep full and accurate records.

Another handler proposal would establish a special price 10 percent higher than the Class II price for skim milk equivalent of nonfat solids used to fortify fluid milk products.

Nonfat solids used to fortify Class I products are classified under the order as Class I milk at the volume of the fluid skim milk used in the manufacture of the added solids. The witness presenting the proposal conceded that the applicable health department requires that the nonfat solids be from Grade A milk.

The value of each pound of nonfat milk solids utilized by addition to, or as, a Class I product has a value to the handler the same as every other pound contained therein. Neither the form in which, nor the source from which, such solids are obtained alter their value to the handler for this purpose and they may not be distinguished on the basis of cost of production, need for regular supplies, sanitary requirements, seasonality of production, or value to consumers. Since the Class I price provisions are designed to encourage producers to deliver an adequate and dependable supply of milk in all seasons, the returns to producers for one portion of Class I milk should not be reduced below the level of the remaining portion disposed of in such class. The proposal for a lesser value, therefore, is denied.

7. *Base-excess plan.* No change should be made in the base earning or base effective months under these orders. Provisions should be made so that bases may be assigned to producers delivering to plants which become pool plants after the beginning of the base-forming period. The definition of "base milk" should be clarified.

Under the Wheeling and Clarksburg orders, the base for each producer is calculated by dividing the total pounds of milk received from such producer at pool plants during the preceding months of September through December by the number of days from the first day of delivery to the last day of September, but not less than 90 days. Such bases are effective for the months of March through July, following.

Various proposals were made to change the months in which producers earn their base and the months in which bases apply. A proposal made by the cooperative association representing a majority of producers in the market would include the months of February and August in the period when bases are effective.

During the period in which the orders have been effective in these markets, the level of production has been such that there would have been a very small percentage of producer milk in the excess category in February and August if bases had been effective in these months. Consequently, there would have been very little difference between the base and excess prices. From this, it is apparent that adding the months of February and August to the base effective period would not be of any consequence in furthering the purpose of the base plan to even out the seasonal variations in production. Also, under the proposal, September would be the only month of the year in which a farmer could come on the market as a new producer and earn a full base without going through a period in which he receives only an excess price or payment on a base less than he would normally earn. Such a base plan does not appear suitable for a market which experiences a relatively short supply during several fall and winter months. This proposal is denied.

A handler in the Clarksburg area proposed that the months of January and February be added to the base earning months. The handler claimed that producers are freshening cows early in the base-forming period and, consequently, their deliveries fell off in the months of January and February as compared to the preceding months.

Deliveries per day per dairy in the Clarksburg area were higher in January and February 1956 than in December 1955, and similarly that production per day per dairy in January and February 1957 was at practically the same level as in December 1956. The rate of production in these two months was higher than in some other months in the base earning period. In view of the relatively short history of the base plan under this order it is not clear yet whether such a later base earning period would benefit the market. No modification of the base earning period should be made at this time.

The proposal was made by a producers' association which would allow a producer whose production is interrupted by causes beyond his control to earn a full base. The types of disaster which might interrupt production and would come within the meaning of the special provisions were described as animal diseases, destruction of crops and barns after the harvest period, enforced retirement, and entrance into the military service. Under the proposal, if a producer's deliveries were interrupted for these reasons, the number of days of interruption would not be included in computing his base.

Such a provision would be difficult to administer, since it would require the administrative agency to make determinations upon matters which are difficult to define in a manner to cover all circumstances and relate to production conditions rather than the marketing of milk after it leaves the farm. The order presently allows producers to compute a full base on a minimum of 90 days' shipments. In effect, this allows a producer to interrupt deliveries during the base-forming period and earn a full base. This proposal is denied.

The base rules allow a producer to transfer his base to another person. These rules therefore allow for transfers of base in the case of any involuntary withdrawal from the dairy business.

A handler proposed that producers who come on the market during the base-paying months should be allowed the base price on some of their milk. His proposal appears to be that such a new producer should be given a base such that the proportion of his deliveries paid for at the base price would be 60 percent as much as a proportion for the market average. This proposal was offered so that producers could come on the market in fall and winter months when the market most needs additional supplies, after it is too late to earn a full base, and be assured of at least a partial base. One handler testified also that in March he needed additional milk but could not take on new producers because they would receive only the excess price for their entire deliveries.

Under the order, the base earning period is September through December, but a producer may enter the market on the third day of October and earn a full base equal to his average deliveries during the October-December period. A producer who enters the market later than this is given a base which is less than average deliveries because the smallest divisor is 90 days. The proposal to allow a producer some portion of his milk as base milk although he enters the market too late to earn a full base, has some merit in that it would help handlers to obtain supplies of producer milk in the short season. However, insufficient evidence was adduced at the hearing to determine if the type of base allowance proposed by the handler would dilute the base price to an extent which would be inequitable to producers who earn a full base, or would impair the effectiveness of the base plan. The proposal should be denied at this time.

From time to time, there are changes in plants associated with a market. Some provision should be made in the order for assigning bases to producers delivering to a plant which enters the market after the beginning of the base earning period. Such producers should be assigned an earned base computed from the records of the deliveries to such plant to the extent that such records are available for the base earning period.

The definition of "base milk" should be clarified so that it applies to the number of days of milk production delivered in the month rather than the number of days on which such milk is delivered. This will accommodate instances where producers regularly deliver on every other day.

8. *Location differentials.* No change should be made in the location differential provisions of either the Wheeling or Clarksburg order except to clarify the provisions.

Producers were primarily concerned with the necessity for an additional basing point for location differentials if the marketing area should be expanded to include all of Guernsey County. This expansion proposal is denied in another part of this decision.

Producers also proposed that the provisions which apply to the location differential to producers should be amended to eliminate the application of the adjustment to producer milk allocated to Class II, and to excess milk in the base-paying months.

The order provides location differentials which apply to the Class I prices charged to handlers. These reflect representative costs of transporting whole milk from outlying points to the market. No location differential applies to Class II use of handlers. With respect to payments to producers, the uniform price is adjusted for location at the same rate as the Class I price.

No plants now supplying the market are receiving producer milk to which location differentials apply.

The value of milk for fluid use when it is delivered by farmers to plants located some distance from the market is affected by the cost of transporting whole milk to market. Accordingly, the uniform prices paid producers should reflect such variations in the value of milk at point of delivery at a distance from the marketing area in contrast to its value when delivered to the marketing area.

During base-paying months in these markets, some excess milk is generally used in Class I. In these circumstances, it would be inappropriate for excess milk to be unaffected by location differentials.

In the case of milk caused by a handler to be delivered to the pool plant of another handler, location differentials on such milk should apply at the plant of the second handler, although for purposes of classification and calculation of pool plant qualification such milk may be treated as if received and handled by the first handler. The order provisions should be clarified to indicate the point at which location differentials apply in the case of such receipts, and also for diverted milk. This will recognize the necessity to relate location allowances to the point of actual physical receipt.

The volume of milk to which the Class I location differential applies should be clarified by indicating that it applies to a volume of Class I disposition from the plant which does not exceed producer milk receipts, such Class I disposition in the case of transfers to be determined by the same allocation procedure as now set forth in the orders.

9. *Clarification.* (a) The classification provisions of the Wheeling and Clarksburg orders should be amended to classify specifically as Class II that skim milk and butterfat which is disposed of in bulk to commercial manufacturers, other than dairy plants, which do not dispose of fluid milk products. The present provisions provide for Class I classification of such disposition.

It was within the intent of the Secretary in the decision relative to these orders issued September 6, 1955, that skim milk and butterfat so disposed of should be classified as Class II. This decision said, in part, "skim milk and butterfat disposed of to commercial food product manufacturing plants, other than dairy plants, which do not dispose of fluid milk products for fluid consumption, should be Class II milk."

(b) In the sections of the Wheeling and Clarksburg orders which define the computation of the uniform price, reference to location differentials should be § 1002.74 and § 1009.74, respectively. In § 1009.5 of the Clarksburg order which defines the marketing area, "the City of Weston" in Lewis County is correct instead of "the City of Western".

(c) The designation of East Liverpool in the definition of the Greater Wheeling marketing area should be corrected.

(d) The allocation provisions, as they apply to receipts from plants regulated under the terms of another Federal order, should be clarified. It is concluded that the use of identical language in both orders will facilitate their administration and remove any possibility of misunderstanding.

General findings. (a) The proposed marketing agreements and the orders 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 areas, respectively, and the minimum prices specified in the proposed marketing agreements and the orders, 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 proposed orders, 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, marketing agreements upon which a hearing has been held.

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

Recommended marketing agreements and amendments to the orders. The following orders amending the orders, regulating the handling of milk in the Greater Wheeling, West Virginia, and Clarksburg, West Virginia, marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this de-

cision because the regulatory provisions thereof would be identical with those contained in the orders, and orders as hereby proposed to be further amended.

Order Amending the Order, as Amended, Regulating the Handling of Milk in the Greater Wheeling, West Virginia, Marketing Area

1. Delete § 1002.5 and substitute therefor the following:

§ 1002.5 *Greater Wheeling marketing area.* "Greater Wheeling marketing area", hereinafter called the "marketing area", means all territory included within the boundaries of (a) Jefferson, Belmont and Monroe counties, Ohio, (b) Hancock, Brooke, Ohio, and Marshall counties, West Virginia, (c) East Liverpool, St. Clair, Wellsville, Yellow Creek, Madison, and Washington townships in Columbiana County, Ohio, and (d) Londonderry, Oxford and Millwood townships in Guernsey County, Ohio.

2. In the proviso in § 1002.6, after the words "nonpool plant", insert the following: "(except a nonpool plant at which the handling of milk is subject to the classification and pricing provisions of another order)".

3. Delete § 1002.8 and substitute therefor the following:

§ 1002.8 *Distributing plant.* "Distributing plant" means an approved plant which meets the conditions of both paragraphs (a) and (b) of this section:

(a) Not less than the required percentage (as specified herein) of the volume of milk received thereat from dairy farmers who meet the inspection requirements pursuant to § 1002.6 and fluid milk products from supply plants pursuant to § 1002.9, is disposed of during the month on routes (including disposal through plant stores or by vending machines) to wholesale or retail outlets (except pool plants), such required percentages being 45 percent in April, May and June, and 55 percent in other months; and

(b) Not less than 5 percent of such disposition on routes as described in paragraph (a) of this section is to wholesale or retail outlets (except pool plants) in the marketing area.

4. Delete § 1002.9 and substitute therefor the following:

§ 1002.9 *Supply plant.* "Supply plant" means: During any of the months of September through January, inclusive, an approved plant from which, during the month, fluid milk products equal to not less than 55 percent of its receipts from dairy farmers who meet the inspection requirements pursuant to § 1002.6 are shipped during the month to distributing plants or disposed of on routes (including disposal through plant stores or by vending machines) to wholesale or retail outlets (excluding pool plants) in the marketing area: *Provided,* That if a plant qualifies as a supply plant pursuant to this section in each of the months of September, October, November, December, and January, such plant shall be a pool plant until the end of the following August, unless the operator requests in writing that such plant not be a pool plant beginning in the month following the date of such request.

5. Delete § 1002.10 and substitute therefor the following:

§ 1002.10 *Pool plant.* "Pool plant" means:

(a) A distributing plant;

(b) A supply plant; or

(c) An approved plant which receives no milk from dairy farmers and from which Class I milk equal to not less than 5 percent of milk disposed of during the month on routes (including disposal through plant stores or by vending machines) to retail or wholesale outlets (excluding pool plants), is so disposed of in the marketing area.

6. Delete § 1002.19 and substitute therefor the following:

§ 1002.19 *Base milk.* "Base milk" means milk received at pool plants from a producer during any of the months of March through July which is not in excess of such producer's daily average base computed pursuant to § 1002.90 multiplied by the number of days of milk production delivered in such month.

7. In § 1002.30 (a), add subparagraph (5) as follows:

(5) Milk caused to be moved from a producer's farm to a plant of another handler.

8. Delete § 1002.40 and substitute therefor the following:

§ 1002.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat to be reported pursuant to § 1002.30 (a) shall be classified each month pursuant to the provisions of §§ 1002.41 through 1002.45.

9. Delete § 1002.41 (b) and substitute therefor the following:

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than a fluid milk product; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of in bulk to any manufacturer of candy, soup or bakery products who does not dispose of milk in fluid form; (4) disposed of as skim milk and used for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator; and (5) in shrinkage not to exceed 2 percent, respectively, of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1002.6) and other source milk: *Provided,* That if shrinkage of skim milk or butterfat is less than such 2 percent it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1002.6) and other source milk, respectively.

10. Delete the first sentence of § 1002.43 (a) and substitute therefor the following: "(a) Skim milk and butterfat transferred to a pool plant of another handler (including that which the handler causes to be delivered from a producer's farm to the pool plant of the other handler, but not including transfers to a producer-handler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk."

11. Delete that part of § 1002.45 (a) (3) which precedes the proviso and substitute therefor the following: "(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in fluid milk products received from plants regulated under another order(s) issued pursuant to the act and classified as Class I pursuant to such other order(s):".

12. Delete § 1002.51 (a) and (b) and substitute therefor the following:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price (computed pursuant to § 1002.50) for the preceding month plus the following amount for the month indicated:

Month	*Amount*
February, March, April, May, June, and July	$1.50
All others	1.95

Provided, That this Class I price shall be increased or decreased by the amount of any "supply-demand adjustment" effective in the calculation of the Class I price for the preceding month under the terms of the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area (Order No. 75, Part 975 of this chapter); and

(b) *Class II milk price.* The Class II milk price shall be the basic formula price computed pursuant to § 1002.50.

13. Delete § 1002.53 and substitute therefor the following:

§ 1002.53 *Location differentials to handlers.* For milk disposed of from a pool plant located 60 miles or more from the city halls of Wheeling, West Virginia, East Liverpool, Ohio, or Steubenville, Ohio, whichever is nearest by shortest hard-surfaced highway distance as determined by the market administrator, as Class I milk pursuant to paragraphs (a) and (b) of this section, but not to exceed producer milk received at such plant (including milk diverted therefrom to nonpool plants), the price specified in § 1002.51 (a) shall be reduced at the rate set forth in the following schedule according to the location specified in paragraph (c) of this section:

Distance from the city hall of Wheeling, W. Va., East Liverpool or Steubenville, Ohio, whichever is nearest (miles):	*Rate per hundredweight (cents)*
60 but not more than 70	15.0
70 but not more than 80	16.5
80 but not more than 90	18.0
For each additional 10 miles or fraction thereof an additional	1.0

(a) In the case of fluid milk products which are moved from the pool plant to another pool plant, assign to Class I milk for the purposes of this section, that portion of the milk moved which remains after assigning such milk to the quantity of Class II milk in the transferee plant as determined by the calculations prescribed in § 1002.45 (a) (1) through (4), and the comparable steps

in § 1002.45 (b) for the transferee plant, such assignment to Class II milk in the case of transfers from several plants to be made in the sequence to the transferring plants according to the location differential applicable at each transferring plant, beginning with the plant having the largest differential;

(b) Class I disposition from the plant other than disposition to the other pool plants; and

(c) For the purpose of application of location differentials, milk shall be considered to be received from producers at the following locations:

(1) Milk delivered from a producer's farm to a pool plant shall be considered as received at such pool plant unless, pursuant to subparagraph (2) of this paragraph, it is considered to be received at another pool plant,

(2) Milk caused by a handler to be delivered from a producer's farm to the pool plant of another handler shall be considered to be received at the plant of the first handler if both handlers so indicate in their reports to the market administrator, and

(3) Milk which is diverted to a nonpool plant pursuant to § 1002.6 shall be considered to be received at a pool plant at the location of the plant from which diverted.

14. Delete § 1002.61 and substitute therefor the following:

§ 1002.61 *Plants subject to other Federal orders.* Upon determination by the Secretary, a plant specified in paragraph (a) or (b) of this section shall be treated as a nonpool plant, except that the operator of such plant shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) Any plant qualified pursuant to § 1002.10 (a) or (c) which disposes of a lesser volume of Class I milk in the Greater Wheeling marketing area than in a marketing area where milk is regulated pursuant to another order issued pursuant to the act, and which is subject to the classification and pricing provisions of such other order if exempted pursuant to this paragraph from regulation as a pool plant under this part;

(b) Any plant qualified pursuant to § 1002.10 (b) for any portion of the period February through August, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of another order issued pursuant to the act and the Secretary determines that such plant should be exempted from this part.

15. In § 1002.62, add the following proviso: "*Provided*, That such payments shall not apply to butterfat or skim milk in excess of butterfat or skim milk received by such nonpool plant from dairy farmers and in the form of fluid milk products from plants not fully regulated under any Federal order."

16. Insert a new section, § 1002.63, as follows:

§ 1002.63 *Milk caused by a handler to be delivered to another handler's pool plant.* Milk caused by a handler to be delivered to the pool plant of another handler shall be considered, for purposes of reporting, classification, and payment, to be received by the handler who so caused the milk to be delivered, if both handlers report such milk as so caused to be delivered.

17. Delete that part of § 1002.70 from the beginning through (a) and substitute therefor the following:

§ 1002.70 *Computation of the obligation of each handler.* For each month the market administrator shall compute the obligation of each pool handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1002.45 by the applicable class price, as adjusted by location differentials on the amount of milk to which location differential allowance applies pursuant to § 1002.53;

18. Delete § 1002.71 (a) and (c) and substitute therefor the following:

(a) Combine into one total the obligations computed pursuant to § 1002.70 for all pool plants which submit reports prescribed in § 1002.30 and who are not in default of payments pursuant to § 1002.80 or § 1002.82;

* * * * *

(c) Add an amount equal to the sum of deductions to be made for producer payments for location differentials pursuant to § 1002.74;

19. Delete § 1002.74 and substitute therefor the following:

§ 1002.74 *Location differential to producers.* The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the city hall of Wheeling, West Virginia, East Liverpool, Ohio, or Steubenville, Ohio, whichever is nearest, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received, as indicated pursuant to § 1002.53 (c), at the following rate:

Distance from the city hall of Wheeling, W. Va., East Liverpool, Ohio, or Steubenville, Ohio, whichever is nearest (miles):	*Rate per hundredweight (cents)*
60 but not more than 70	15.0
70 but not more than 80	16.5
80 but not more than 90	18.0
For each additional 10 miles or fraction thereof an additional	1.0

20. In §§ 1002.82 and 1002.83, delete the words "the value of his producer milk" and substitute therefor the words "his obligation".

21. Delete § 1002.90 and substitute therefor the following:

§ 1002.90 *Computation of daily average base for each producer.* Subject to the rules set forth in § 1002.91, the daily average 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 months of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of December, inclusive, or by 90, whichever is more: *Provided*, That any producer who, during the preceding months of September through December, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base, in the same manner as if he had been a producer during such period, calculated from his deliveries during such September-December period to such plant.

Order Amending the Order, as Amended, Regulating the Handling of Milk in the Clarksburg, West Virginia, Marketing Area

1. Delete "Western" as it appears in § 1009.5 and substitute therefor "Weston".

2. In the proviso in § 1009.6, after the words "nonpool plant", insert the following: "(except a nonpool plant at which the handling of milk is subject to the classification and pricing provisions of another order)".

3. Delete § 1009.8 and substitute therefor the following:

§ 1009.8 *Distributing plant.* "Distributing plant" means an approved plant which meets the conditions of both paragraphs (a) and (b) of this section:

(a) Not less than the required percentage (as specified herein) of the volume of milk received thereat from dairy farmers who meet the inspection requirements pursuant to § 1009.6 and fluid milk products from supply plants pursuant to § 1009.9, is disposed of during the month on routes (including disposal through plant stores or by vending machines) to wholesale or retail outlets (except pool plants), such required percentages being 45 percent in April, May and June, and 55 percent in other months; and

(b) Not less than 5 percent of such disposition on routes as described in paragraph (a) of this section is to wholesale or retail outlets (except pool plants) in the marketing area.

4. Delete § 1009.9 and substitute therefor the following:

§ 1009.9 *Supply plant.* "Supply plant" means: During any of the months of September through January, inclusive, an approved plant from which, during the month, fluid milk products equal to not less than 55 percent of its receipts from dairy farmers who meet the inspection requirements pursuant to § 1009.6 are shipped during the month to distributing plants or disposed of on routes (including disposal through plant stores or by vending machines) to wholesale or retail outlets (excluding pool plants) in the marketing area: *Provided*, That if a plant qualifies as a supply plant pursuant to this section in each of the months of September, October, November, December, and January, such plant shall be a pool plant until the end of the following August, unless the operator re-

quests in writing that such plant not be a pool plant beginning in the month following the date of such request.

5. Delete § 1009.10 and substitute therefor the following:

§ 1009.10 *Pool plant.* "Pool plant" means:

(a) A distributing plant;

(b) A supply plant; or

(c) An approved plant which receives no milk from dairy farmers and from which Class I milk equal to not less than 5 percent of milk disposed of during the month on routes (including disposal through plant stores or by vending machines) to retail or wholesale outlets (excluding pool plants) is so disposed of in the marketing area.

6. Delete § 1009.19 and substitute therefor the following:

§ 1009.19 *Base milk.* "Base milk" means milk received at pool plants from a producer during any of the months of March through July which is not in excess of such producer's daily average base computed pursuant to § 1009.90 multiplied by the number of days of milk production delivered in such month.

7. In § 1009.30 (a), add subparagraph (5) as follows:

(5) Milk caused to be moved from a producer's farm to a plant of another handler.

8. Delete § 1009.40 and substitute therefor the following:

§ 1009.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat to be reported pursuant to § 1009.30 (a) shall be classified each month pursuant to the provisions of §§ 1009.41 through 1009.45.

9. Delete § 1009.41 (b) and substitute therefor the following:

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than a fluid milk product; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of in bulk to any manufacturer of candy, soup or bakery products who does not dispose of milk in fluid form; (4) disposed of as skim milk and used for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator; and (5) in shrinkage not to exceed 2 percent, respectively, of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1009.6) and other source milk: *Provided,* That if shrinkage of skim milk or butterfat is less than such 2 percent it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1009.6) and other source milk, respectively.

10. Delete the first sentence of § 1009.43 (a) and substitute therefor the following: "(a) Skim milk and butterfat transferred to a pool plant of another handler (including that which the handler causes to be delivered from a producer's farm to the pool plant of the other handler, but not including transfers to a producer-handler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk."

11. Delete that part of § 1009.45 (a) (3) which precedes the proviso and substitute therefor the following: "(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in fluid milk products received from plants regulated under another order(s) issued pursuant to the act and classified as Class I pursuant to such other order(s):".

12. Delete § 1009.51 (a) and (b) and substitute therefor the following:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price (computed pursuant to § 1009.50) for the preceding month plus the following amount for the month indicated:

Month	*Amount*
February, March, April, May, June, and July	$1.75
All others	2.20

Provided, That this Class I price shall be increased or decreased by the amount of any "supply-demand adjustment" effective in the calculation of the Class I price for the preceding month under the terms of the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area (Order No. 75, Part 975 of this chapter); and

(b) *Class II milk price.* The Class II milk price shall be the basic formula price computed pursuant to § 1009.50.

13. Delete § 1009.53 and substitute therefor the following:

§ 1009.53 *Location differentials to handlers.* For milk disposed of from a pool plant located 60 miles or more from the City Hall of Clarksburg, West Virginia, by shortest hard-surfaced highway distance, as determined by the market administrator, as Class I milk pursuant to paragraphs (a) and (b) of this section, but not to exceed producer milk received at such plant (including milk diverted therefrom to nonpool plants), the price specified in § 1009.51 (a) shall be reduced at the rate set forth in the following schedule according to the location specified in paragraph (c) of this section:

Distance from the City Hall of Clarksburg, W. Va., (miles):	*Rate per hundredweight (cents)*
60 but not more than 70	20
70 but not more than 80	22
80 but not more than 90	24
For each additional 10 miles or fraction thereof an additional	1

(a) In the case of fluid milk products which are moved from the pool plant to another pool plant, assign to Class I milk for the purposes of this section, that portion of the milk moved which remains after assigning such milk to Class II milk in the transferee plant as determined by the calculations prescribed in § 1009.45 (a) (1) through (4), and the comparable steps in § 1009.45 (b) for the transferee plant, such assignment to Class II milk in the case of transfers from several plants to be made in the sequence to the transferring plants according to the location differential applicable at each transferring plant, beginning with the plant having the largest differential;

(b) Class I disposition from the plant other than disposition to the other pool plants; and

(c) For the purpose of application of location differentials, milk shall be considered to be received from producers at the following locations:

(1) Milk delivered from a producer's farm to a pool plant shall be considered as received at such pool plant unless, pursuant to subparagraph (2) of this paragraph, it is considered to be received at another pool plant,

(2) Milk caused by a handler to be delivered from a producer's farm to the pool plant of another handler shall be considered to be received at the plant of the first handler if both handlers so indicate in their reports to the market administator, and

(3) Milk which is diverted to a nonpool plant pursuant to § 1009.6 shall be considered to be received at a pool plant at the location of the plant from which diverted.

14. Delete § 1009.61 and substitute the following:

§ 1009.61 *Plants subject to other Federal orders.* Upon determination by the Secretary, a plant specified in paragraph (a) or (b) of this section shall be treated as a nonpool plant, except that the operator of such plant shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) Any plant qualified pursuant to § 1009.10 (a) or (c) which disposes of a lesser volume of Class I milk in the Clarksburg marketing area than in a marketing area where milk is regulated pursuant to another order issued pursuant to the act, and which is subject to the classification and pricing provisions of such other order if exempted pursuant to this paragraph from regulation as a pool plant under this part;

(b) Any plant qualified pursuant to § 1009.10 (b) for any portion of the period February through August, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of another order issued pursuant to the act and the Secretary determines that such plant should be exempted from this part.

15. In § 1009.62, add the following proviso: *"Provided,* That such payments shall not apply to butterfat or skim milk in excess of butterfat or skim milk received by such nonpool plant from dairy farmers and in the form of fluid milk products from plants not fully regulated under any Federal order.

16. Insert a new section, § 1009.63, as follows:

§ 1009.63 *Milk caused by a handler to be delivered to another handler's pool plant.* Milk caused by a handler to be delivered to the pool plant of another handler shall be considered, for purposes

of reporting, classification, and payment, to be received by the handler who so caused the milk to be delivered, if both handlers report such milk as so caused to be delivered.

17. Delete that part of § 1009.70 from the beginning through (a) and substitute therefor the following:

§ 1009.70 *Computation of the obligation of each handler.* For each month the market administrator shall compute the obligation of each pool handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1009.45 by the applicable class price, as adjusted by location differentials on the amount of milk to which location differential allowance applies pursuant to § 1009.53;

18. Delete § 1009.71 (a) and (c) and substitute therefor the following:

(a) Combine into one total the obligations computed pursuant to § 1009.70 for all pool plants which submit reports prescribed in § 1009.30 and who are not in default of payments pursuant to § 1009.80 or § 1009.82;

* * * * *

(c) Add an amount equal to the sum of deductions to be made for producer payments for location differentials pursuant to § 1009.74;

19. Delete § 1009.74 and substitute therefor the following:

§ 1009.74 *Location differential to producers.* The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the City Hall of Clarksburg, West Virginia, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received, as indicated pursuant to § 1009.53 (c), at the rates set forth in § 1009.53.

20. In §§ 1009.82 and 1009.83, delete the words "the value of his producer milk" and substitute therefor the words "his obligation".

21, § 1009.90 and substitute therefor the following:

§ 1009.90 *Computation of daily average base for each producer.* Subject to the rules set forth in § 1009.91, the daily average 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 months of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of December, inclusive, or by 90, whichever is more: *Provided,* That any producer who, during the preceding months of September through December, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base, in the same manner as if he had been a producer during such period, calculated from his deliveries during such September-December period to such plant.

Issued at Washington, D. C., this 10th day of September, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 57-7542; Filed, Sept. 12, 1957; 8:55 a. m.]

[7 CFR Part 1008]

[Docket No. AO-275-A2]

MILK IN INLAND EMPIRE MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Spokane, Washington, on May 28, 29 and 31, 1957 pursuant to notice thereof issued on May 8, 1957 (22 F. R. 3357).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on August 9, 1957 (22 F. R. 6514) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues of record are concerned with:

1. Whether the present Inland Empire marketing area should be extended, or separate regulation be adopted, to apply to any or all of several additional counties in Washington and Idaho;

2. A proposed increase in the price differential for Class I milk, provision for an automatic supply-demand adjuster, and revision of location adjustments;

3. Whether the classification provisions should be amended: (a) To classify ending inventories as Class II milk, (b) to classify skim milk dumped as Class II milk during any month of the year, and (c) to classify "cocoa mixes" as Class II milk;

4. Revision of "pool plant" delivery performance requirements; and

5. Proposals to clarify the language of various order provisions and certain administrative and conforming changes.

During the course of the hearing counsel for a handler requested the admission into the record of Exhibit No. 5 (marked for identification). Such exhibit is a photostat copy of the house organ of a cooperative association which contains certain statements credited to a former manager of the association who was not available for examination. In the circumstances the exhibit was not admitted by the presiding officer on the basis the statements contained therein which counsel sought to be included in the record does not constitute the kind of testimony upon which responsible persons are accustomed to rely. An offer of proof was made by counsel. It is determined that the ruling of the presiding officer was correct and such ruling is hereby affirmed.

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

(1) The marketing area should be extended to include Benewah and Boundary Counties, Idaho.

The extension of the marketing area to Benewah County was proposed by two producers' cooperatives associated with the marketing area. The proposal to include Boundary County was submitted by a third producer's cooperative, which operates a plant located at Bonner's Ferry, Idaho. In both instances, the primary reason offered by proponents for extending the marketing area is to provide a similar price plan for all members of the associations concerned. The proposals were further supported on the basis that regulated handlers distribute substantial amounts of milk in said counties. Some members of one proponent association opposed extension of the marketing area to Benewah County primarily because such dairy farmers are satisfied with the business relationship they have with the nonregulated distributor there.

At the present time, some members of one association are shipping milk each month both to a nonregulated fluid milk plant at St. Maries (Benewah County) and to a plant regulated by the order. The fact that some dairy farmers have the opportunity to ship milk to both regulated and unregulated plants in the same month has undesirable effects on returns to those producers whose milk is priced by the order, and even on the regulation itself. Each month the Inland Empire marketing area utilizes a portion of its producer receipts as Class II milk. During the first 12 months of order operation such utilization ranged, on a monthly basis, from 5.9 to 19.8 percent of total producer receipts. The partial supplies of milk delivered to a regulated plant increase the volume of producer milk on the Inland Empire market with milk that is surplus to the fluid milk operations of the nonregulated distributor in Benewah County. Its unavailability to the regulated plant a portion of each month makes it an undependable source of milk for Class I use in the marketing area but at such times as it is delivered to a pool plant, it adds to the available supply which must be utilized as Class II milk, and thus tends to reduce the uniform price to all producers. Moreover, the opportunity afforded the nonregulated plant operator in Benewah County to limit his supply to requirements for fluid utilization (enhanced by the purchase of supplemental Class II milk products in finished form from a regulated plant) results in relatively higher returns to dairy farmers who supply the unregulated plant. This situation potentially, if not presently, affords the nonregulated distributor a competitive advantage over regulated handlers in the procurement of milk due simply to the existence of the regulation with its marketwide pooling plan for distributing producer returns. Over the longer term a more stable supply situa-

tion will prevail in the Inland Empire market if all producers involved in the foregoing marketing situation are paid on a similar price plan. It is concluded that Benewah County, Idaho, should be included in the marketing area.

A somewhat similar marketing situation also exists in Boundary County. Some members of the proponent producers' association ship milk to a regulated plant and other members deliver to the association's unregulated processing plant at Bonner's Ferry. Proponents expressed a desire for a uniform pricing plan for all members of the association. A close and continuing relationship of proponent's operation at Bonner's Ferry with a regulated plant in the marketing area was shown. The cooperative's processing plant at Bonner's Ferry supplies the regulated plant with supplemental milk, and also purchases a portion of its packaged milk needs from the regulated plant. During the past year the unregulated plant twice qualified as a pool plant. It has been necessary for such association to rely on the regulated plant in the Inland Empire market as the outlet for its entire milk supply when floods occur at Bonner's Ferry. The inclusion of Boundary County in the marketing area will establish a price and classification basis for milk moved between the marketing area plant and the plant at Boundary County equivalent to that applicable to the movement of milk between plants now under the regulation. It is concluded that Boundary County, Idaho, should be included in the marketing area.

Producer organizations proposed further that the marketing area be extended to include Whitman County, Washington, and Latah County, Idaho.

A handler with unregulated distributing plants in Pullman, Washington, and Moscow, Idaho, proposed the extension of the marketing area to Asotin County, Washington, and Nez Perce County, Idaho. Such proposal was submitted for consideration only in the event Whitman and Latah Counties were to be included in the marketing area. The proponent handler testified that 25 percent of his milk sales are in such counties and that it is necessary that they be included in order that proponent might remain competitive with other dealers from unregulated areas in Idaho, Washington, and Oregon where producer prices historically have been lower than in the Whitman-Latah area.

A nonregulated distributor of milk proposed the extension of the marketing area to Clearwater, Lewis and Idaho Counties, Idaho, and to Asotin County, Washington.

Producer proponents, in supporting their proposal, contended that:

1. Whitman and Latah Counties normally are part of the Inland Empire marketing area.

2. Historically, milk prices to producers and consumers in this area have followed prices in the Spokane market.

3. Producers have been unsuccessful in attempts to negotiate agreements with distributors on prices, butterfat checktesting, and audits of milk utilization.

Testimony in opposition to the marketing area extension stressed that:

1. Farm prices for milk in the proposed area compare favorably with those paid at regulated plants.

2. During the past ten years no dairy farmer has been denied a market except by action of the health authorities.

3. Dairy farmers have not been compelled to restrict production, or to market any portion of their production themselves.

4. Marketing conditions are not disorderly, and consumer prices have not fluctuated materially.

5. Adequate supplies of milk for fluid needs are produced locally.

6. Distributors do not rely on the Inland Empire marketing area for supplemental milk supplies.

Producers contended that Whitman and Latah Counties are an integral part of the Inland Empire marketing area. However, only one of the ten handlers regulated by the order sells milk in such counties from a regulated plant. During the past two years, the sales of milk in this area from the regulated plant have increased slightly. This distribution accounts for about 3 percent of the total Class I utilization of all regulated handlers.

The proponent associations also indicated that, historically, farm pricing of Grade A milk in Whitman and Latah Counties has followed that of the Inland Empire marketing area. At the present time, nonregulated distributors in these two counties deduct twenty-four cents per hundredweight from the prevailing Inland Empire Class I price in establishing prices for milk delivered to plants at Pullman and Moscow. This deduction is equivalent to the handler location adjustment provided in the order, which would apply to any plant in the Pullman-Moscow area which might come under the regulation. Proponents contended that this deduction is unjustified because no milk is received at plants located in Whitman and Latah Counties for distribution in the Inland Empire marketing area.

The deduction referred to was begun in September 1956. The net price paid dairy farmers for Class I milk at the nonregulated plants in Pullman and Moscow is the prevailing price paid at a regulated plant of the same distributor at Spokane, less the twenty-four cent deduction. The prevailing price at such plant includes, however, a substantial premium above the order minimum Class I price. A comparison of the announced minimum Class I prices under the order with those paid by the nonregulated plants at Pullman and Moscow shows that during the past year Class I prices paid by the nonregulated plants have been consistently higher, ranging from plus 4 cents to plus 34 cents per hundredweight; the average difference being plus 18 cents.

A comparison of producer "blend" prices paid at the nonregulated plants with uniform prices announced under the order indicates that the blend prices in the unregulated area also have been consistently higher during the same 12-month period. Blend prices paid at Moscow, Idaho, area averaged 27 cents more than those paid by regulated handlers. In the Pullman, Washington, area, blend prices averaged 41 cents more.

Producers contended further that they have been unsuccessful in attempts to negotiate at nonregulated plants concerning price agreements, butterfat check-testing, and audits of milk utilization. But producers, through the efforts of their association, were successful in terminating a lower Class I price for milk packaged in half-gallon containers. This "special" price was instituted in August 1955 and terminated in July 1956.

Producers also testified that although their association was successful in negotiations to terminate the special price, the nonregulated plant at the same time arbitrarily increased the farm-to-plant hauling rate. The hauling rate was changed from 20 cents per can (or about 23 cents per hundredweight) to 35 cents per hundredweight, but the validity of such increase in rate was not questioned at the hearing. The prices to dairy farmers prevailing in the Whitman-Latah area are higher than the order minimum even after consideration of such rate increase.

Producers did not elaborate on butterfat check-testing problems, nor does the record indicate that the producers' association actually attempted to establish check-testing and audit programs at the nonregulated plants. The Class I milk utilization at the nonregulated plants represents a high percentage of their total receipts. On the whole, producer witnesses did not express dissatisfaction either with payments based on past utilization or with price policy followed at the unregulated plants, but merely were apprehensive about future prices because of increasing production.

An independent producer witness representing some of the dairy farmers in this area testified that their business relationship with the nonregulated plants in Whitman and Latah Counties has been satisfactory. They opposed the proposal to extend the marketing area to these counties.

The principal nonregulated distributor in these counties testified that no regulated handler supplies supplemental milk to unregulated plants there. He contended that local production is sufficient for all fluid milk sales, and for most of the cottage cheese and ice cream sales. Whenever supplemental milk has been needed, as in March 1955 and October 1956, it has been purchased from unregulated plant sources.

It may not be concluded from the present record that there are serious disorderly marketing conditions in the unregulated area in question. Producers whose milk is shipped to handlers regulated by the order are not being disadvantaged in the pricing of their milk because of an unregulated market in Whitman and Latah Counties. There was no showing of undue hardship on any regulated handler as the result of failure to regulate such counties. The marketing area should not be extended at this time to include said counties.

Asotin County, Washington, and Nez Perce County, Idaho, were proposed for inclusion in the marketing area only if Whitman and Latah Counties were to be regulated. In view of the above, it is concluded that no useful purpose would be served by including Asotin and Nez Perce Counties in the marketing area.

The nonregulated distributor proponent for the inclusion of Clearwater, Lewis and Idaho Counties, Idaho, did not make an appearance at the hearing. The record contains no supporting evidence for his proposal. A number of dairy farmers appeared at the hearing, and opposed the extension of the marketing area to said counties. In view of the foregoing conclusions concerning the other counties proposed, and in the absence of supporting evidence, it is concluded that the Inland Empire marketing area should not be extended to include Clearwater, Lewis and Idaho Counties, Idaho.

The proposal to include Shoshone County and the eastern part of Kootenai County, Idaho, in the marketing area was made by two producers' associations. The principal towns involved in the proposed annexation are Kellogg, Mullen and Wallace, in Shoshone County.

The associations supported their proposal on the following grounds:

1. Extension of the area will permit a free flow of milk between plants in the marketing area and those in the proposed extension.

2. Competition from unregulated plant sources in Montana could be controlled for the protection of local dairy farmers.

3. Inland Empire producers can supply all the milk needed at Wallace, Mullen and Kellogg, Idaho.

An unregulated distributor located in Shoshone County who would be regulated under the proposal supported the proposed extension of the marketing area primarily because dairy farmers supplying the plant desire it as a means of establishing their prices on a basis equivalent to that of the Inland Empire market, and because of the proximity of Kellogg, Idaho, to Spokane, Washington.

Two unregulated distributors with plants at Missoula, Montana, who distribute some milk in Shoshone County, opposed the proposed marketing area extension indicating that their milk is priced to both producers and consumers under the Montana Milk Control Act, and if the marketing area were extended to Shoshone County, they would be required to pay compensatory payments on the volume of their sales in Shoshone County.

Proponents conceded on examination that Shoshone County is not significantly a part of the sales area for handlers regulated by the Inland Empire order although one regulated handler sells milk in half-gallon containers to an unregulated local distributor at Kellogg, Idaho, and another regulated handler with a plant at Coeur d' Alene, Idaho, also sells some milk in the county. There are no data in the record indicating the extent of these sales, and the regulated handlers involved did not testify on this proposal. One of the proponents, who no longer distributes milk in Shoshone County, testified that its sales outlets there were lost as the result of a price war in 1954. This occurred prior to the introduction of the order.

Although a producer witness testified that competition from unregulated sources in Montana could be controlled for the protection of local dairy farmers if Shoshone County were included in the marketing area, there was no showing of unstable marketing conditions or that producers are not receiving returns reasonably aligned with those resulting from the order. The fact that members of the association are in a position to supply all the milk needed at Wallace, Mullen and Kellogg, Idaho, is not adequate reason to regulate the handling of milk in such communities.

It is concluded from the foregoing that the marketing of milk in Shoshone County is not sufficiently related to the handling of milk in the Inland Empire market at this time to warrant regulation and therefore the marketing area should not be extended to include Shoshone County, Idaho.

The eastern portion of Kootenai County was proposed for regulation only to maintain contiguity for the entire marketing area as proposed for extension to Shoshone County. There are no local fluid milk plants in the eastern portion of Kootenai County. It is concluded further that such territory should not be included in the marketing area.

A handler proposed inclusion of Grant, Adams and Lincoln Counties in the marketing area. In support of this proposal proponent pointed out that approximately 19 percent of his total Class I sales are made on routes in such counties. About 5 percent of his total Class I sales are made to a military installation in Grant County (referred to in the record as the "Columbia Basin"). The major portion of the volume so sold by the proponent handler is distributed to outlets in Grant County rather than in Adams and Lincoln Counties. It was contended that inclusion of the Columbia Basin in the marketing area would assist in maintaining the returns of Inland Empire producers and protect Class I sales made in such area from the regulated plant by placing all competitors for sales in the Basin on a uniform price basis in the purchase of milk. In this connection proponent alleges competitive disadvantage in the sale of milk as the result of the prices he is required to pay producers. Proponent, however, does not propose regulation in the Basin unless the Class I price f. o. b. the Basin is set at a level equivalent to the Class I price for milk delivered to a regulated plant located in Spokane, by eliminating the location adjustment between Spokane and the Basin.

A producer association expressed concern that loss of sales by the one regulated handler distributing in the Basin, as the result of any competitive disadvantage in the distribution of milk, would have a severe impact on producer returns. This association indicated, however, that if the Basin were regulated, the potential of "pool-riding" by plants located in the vicinity of the Basin should be mitigated by revising the delivery performance requirements provided for the pool qualification of plants which distribute Class I milk on routes.

The principal consuming centers, Moses Lake and Ephrata, in the Basin are each located approximately 110 miles from Spokane. The distance from Wenatchee to Ephrata is approximately 50 miles and the distance between Wenatchee and Moses Lake is about 70 miles. Ellensburg also is about 70 miles from Moses Lake.

Some milk produced in the Basin is delivered to Yakima, approximately 105 miles distant, for bottling and is returned for sale from distributing stations located in the Basin. A plant operated by a cooperative at Ellensburg has available a substantial quantity of milk qualified for sale as fluid milk. This milk is priced at present under the terms of the Puget Sound order and the industry-negotiated premium payment plan prevailing in the Puget Sound market. It is transported to the Puget Sound marketing area from the Ellensburg area at a hauling rate of 23 cents per hundredweight. Fluid milk distribution routes from the bottling plant of this association at Ellensburg approach, possibly enter, Grant County, at a point less than 40 miles from Moses Lake.

On an historical basis, the Basin communities have been served from Spokane plants. As such communities have developed, routes to the Basin have been established from the Wenatchee market also. About the time of the inception of the Inland Empire order in April 1956, certain milk previously produced and distributed in the Basin, but bottled in a Spokane plant, was shifted to a Yakima plant for bottling. Such milk continues to be distributed in the Basin.

The prevailing price to producers for milk for fluid use in the unregulated Wenatchee and Yakima markets is $5.50 per hundredweight on a 4 percent butterfat content basis. This price compares with a minimum Class I price for milk of similar butterfat content under the Inland Empire order of $5.44 per hundredweight for the first year of order operation (April 1956–March 1957). Such a price relationship does not manifest competitive disadvantage to a Spokane handler distributing in the Basin. Actual prices for Class I milk in the Inland Empire market averaged somewhat higher, however, than $5.44 per hundredweight during the past 12 months because premiums over order prices have been paid by handlers as the result of negotiation with producer organizations. Payments on Class I milk above order prices averaged about $0.42 per hundredweight in the April 1956–April 1957 period. Any competitive disadvantage felt by the Spokane handler as the result of premiums paid through negotiation with producers may not be regarded as sufficient reason for expansion of the marketing area as a means of eliminating competitive disadvantage to such handler based upon the price paid for milk. Similarly, the marketing area may not be expanded as proposed simply for the purpose of protecting current levels of sales of pooled milk in the area to be annexed at whatever price above the order level may be negotiated to insure

adequate supplies for the principal communities covered by the regulation.

The payment of negotiated premium prices in the Spokane market indicates the necessity for somewhat higher prices for milk delivered to Spokane than have been necessary at Wenatchee, Ellensburg, or Yakima to induce the production of adequate milk supplies. Inland Empire producers request that the Class I price under the order be increased at this time to insure adequate supplies in the future for the marketing area already under regulation. Milk is available in the central portion of Washington (Yakima, Ellensburg and Sunnyside) at prices considerably lower than the level requested for Spokane and vicinity.

Application of the Spokane level of prices f. o. b. the Basin would establish prices at the latter point higher than necessary to induce adequate supplies in this section of the State. There was no evidence of disorderly marketing conditions for dairy farmers in the central Washington markets or that higher farm prices for Grade A milk are sought by producers in this area. Although producers shipping to Spokane plants historically have received the benefit of a large proportion of the fluid milk sales in the Basin, the advantages of location should not be denied to milk which is closer to the Basin. The record does not reveal a basis on which to eliminate location adjustments in the case of plants located in such vicinity as a corollary to inclusion of the Basin in the marketing area.

Producers at Spokane expressed concern that loss of sales in the Basin would be highly detrimental to their returns for milk. The Class I sales made from the Spokane plant to the Basin constitute about 4 percent of the total Class I sales in the marketing area. It would not be appropriate to set prices at Spokane, where a large majority of the Class I sales of regulated handlers are made, at a level which would guarantee sufficient supplies for both the present marketing area and the Basin when lower-priced milk is available for the latter market.

Without the inclusion of Grant County, no useful purpose would be served by including Adams and Lincoln Counties since the total distribution of milk there is small. It is concluded that the marketing area should not be extended to include Grant, Adams, and Lincoln Counties.

(2) The price formula for Class I milk should be revised.

Producers proposed that the present Class I price differential of $1.85 per hundredweight (over the basic formula price) be increased 15 cents to $2.00 per hundredweight. The proposed differential, like the present one, would apply each month of the year. In addition, proponents suggested a "supply-demand adjuster" under which the Class I price differential would be modified automatically as changes occur in the relationship of milk supply to sales of Class I milk. No opposition testimony was presented.

Proponents supported their proposal on the grounds that (a) handlers have paid premiums each month since the introduction of the order, (b) milk production has not been over-stimulated during the past year, and (c) the proposed price level would still be below the present Class I price level including the premiums paid since the inception of the order.

Each month since the effective date of the order, handlers have paid premiums above the minimum Class I milk prices established by the order. Such premiums have ranged from 8 cents to 99 cents. The wide range of premiums paid has caused disparities in returns to producers under the marketwide pooling provisions of the order, and also has resulted in varying costs of milk among handlers. During the 13 months between the effective date of the order and the hearing, the premiums paid (on a monthly basis) averaged 42 cents per hundredweight. The average minimum Class I milk price during that period was $5.44 per hundredweight. With premiums, the average monthly Class I milk price was $5.86 per hundredweight.

At the time the order became effective (April 1956), a temporary Class I price differential was established. This differential expires automatically at the end of September 1957. The current proceeding affords an opportunity to review the Class I milk price level in the light of current marketing conditions. During the past year, the number of pool plants decreased from 16 to 13. Between May 1956 and May this year the number of producers decreased from 979 to 950. At the same time, however, average daily deliveries per producer increased about 12 percent. Official notice is hereby taken of the statistical summary for April and May 1957 issued by the market administrator under Order 108, in order to provide statistical comparisons with the corresponding months of the previous year.

During April and May 1957, total producer receipts increased about 9 and 8 percent, respectively, over the levels of the same months a year ago. The total volume of Class I milk utilization increased less than 1 percent in the same period. The utilization of producer milk in Class I in April and May 1957 decreased 6 percent and 5 percent, respectively, below the corresponding months of the previous year. The utilization of producer milk in the other two classes increased slightly. During the 13 months prior to the hearing, the monthly utilization of producer milk in Class I ranged from 68.7 percent to 90.7 percent. On a monthly basis, the utilization of producer milk in Class I averaged 80.6 percent, in Class II–A, 10.9 percent, and in Class II, 8.5 percent. The effective Class I milk price level (including the premiums negotiated by producers) has encouraged a production increase in relation to Class I sales during the past year. Such price level has not resulted, however, in a burdensome surplus even though feed prices are slightly lower in the milkshed than they were a year ago.

Although producers proposed a stated Class I price differential of $2.00 per hundredweight, the difference between such differential and that ($1.65) fixed by the Puget Sound order, would exceed the difference in the relative costs of transporting milk to the two markets from areas where milk supplies could be made available for either market. The cost of moving milk to District No. 1 of the Puget Sound marketing area from Ellensburg, Washington, is 23 cents per hundredweight. An allowance of about 46 cents is provided under the Inland Empire order for the Ellensburg location. It is concluded that a Class I milk differential of $1.90 per hundredweight, which represents an increase of 5 cents from the current differential, is reasonable in light of the above costs of moving milk and should be adopted. Thus, the Inland Empire Class I price would be appropriately aligned with prices at the nearest plant associated with the Puget Sound market where milk supplies are available in substantial quantities. If the proposed Class I price differential of $1.90 had been in effect during the 13 months prior to the recent hearing, an average Class I price of $5.49 would have resulted. As previously stated, the average Class I price actually paid during this period was 37 cents higher, or $5.86 per hundredweight.

Producers also proposed that a supply-demand adjuster be included in the order. Handlers concurred in this proposal. The stated purpose of this type of provision is to adjust automatically the Class I milk price in response to changes in the relationship of producer milk to Class I utilization from a reasonable standard, or "norm". Such automatic adjustment is designed to facilitate prompt changes in price in response to changing supply and sales conditions, thus reducing the frequency of hearings as relatively minor changes in the supply-sales relationship occur.

The supply-demand adjuster set forth herein, as in the case of proponents' proposal, would relate Class I milk price changes to the ratio of producer milk to Class I sales during the second and third months preceding that to which the Class I price applies. The schedule of standard utilization percentages adopted is based on an average Class I utilization of about 76 percent of producer milk supplies. This allows for a 17 percent annual average reserve supply of producer milk, which should be the minimum necessary to prevent shortages in the fall months, after taking into account that about 7 percent of producer milk is used in Class II–A for cottage cheese (which is required by the marketing area health authorities to be made of Grade A milk).

Price adjustments would apply at a rate of five cents per hundredweight plus or minus for each point of change between the current supply-Class I sales ratio and a standard utilization percentage figure for the particular month. The total adjustment is limited to plus or minus 50 cents. Since an adjustment beyond this point would reflect a significant change in the supply-sales relationship from the present, it would be appropriate to convene a hearing to reconsider the Class I price level in the light of such change. This limitation will also help to preserve a reasonable price alignment with the Puget Sound market.

For the period July 1956 through June 1957, the Class I milk price provided herein, on a monthly basis, would have averaged about $5.74. On the basis that

the Class I price premiums paid by handlers in May and June 1957 are the same as in April 1957, the average Class I milk price effective for the 12-month period specified would be $5.93. The Class I price level adopted would have been about 19 cents less than the actual level for this period.

It is concluded also that the supply-demand adjuster set forth herein will provide appropriate price adjustments based on the normal needs of the Inland Empire market for Class I milk, cottage cheese, and a necessary reserve, and should be adopted. Although the price level to result from the provision will be somewhat higher than the present order Class I price, the formula does not result in a price as high as the current market price, including premiums. Further, it will reduce the Class I milk price promptly in the event production should increase at a faster rate than Class I sales.

At the hearing, producers proposed that in calculating a supply-demand adjuster, the milk of any handler whose plant was not a pool plant for at least three of the most recent 12 months should be excluded from the supply-demand computation. It was testified that the principal purpose of a supply-demand adjuster is to equate market supply and demand and that plants that qualify irregularly as pool plants may not be said to be a part of the long-run sources of milk for the market. However, in another part of this decision it is provided that the pooling standards for distributing plants be revised. Such revision should prevent unnecessary dilution of the pool through shipments of milk from plants associated with the market only in a casual way. In view of this, it is concluded that the proposal to exclude certain plants from the supply-demand computation should not be adopted.

Producers and handlers proposed changes in the location adjustment provisions, which would provide for additional basing points for computing location differentials and also would revise the rate of adjustment. The additional basing points were proposed in connection with proposals to extend the marketing area to the Columbia Basin and the Pullman-Moscow area. Elsewhere herein it is provided that such area extensions should not be made. No testimony was presented to show whether the present rate should be increased or decreased or in what manner the present rate schedule is inappropriate. In view of this, it is concluded that the location differential provisions should not be revised.

(3) Certain revisions to the classification provisions of the order should be made; the provision relating to the classification of skim milk dumped should not be changed.

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

It is concluded that inventory should be accounted for as Class II milk. If fluid milk products in inventory are accounted for as Class II milk at the end of the month, it will be necessary to provide a method to deal with the producer milk inventory which is used in the current month for Class I purposes but which the handler accounted for to producers as Class II milk at the end of the previous month. In a plant which engages primarily in a fluid milk business, it is quite possible that a decrease in inventory in any given month may exceed its total utilization of Class II milk. Handlers, at times, also use other source milk in their operations. Producer milk from inventory should have prior claim on Class I sales over current receipts of other source milk. This can be accomplished by considering the ending inventory in one month as a receipt in the following month and subtracting such receipt (under the allocation procedure) in series starting with Class II milk following the subtraction of other source milk.

To the extent that opening inventory is allocated to Class I milk and there was an equivalent amount of producer milk classified in Class II milk in the previous month (after the allocation of other source milk) a reclassification charge should be made at the difference between the Class I price in the current month and the Class II price in the preceding month. This will promote uniformity in the cost of milk among handlers and in returns to producers for their milk, irrespective of whether or not such producer milk is from the previous month's ending inventory or is a current receipt.

(b) The provision which permits skim milk dumped during the months of April, May, June and July to be classified as Class II milk should not be revised.

A producers' organization suggested that skim milk dumped be classified as Class II milk in any month of the year in the event the marketing area were expanded to include certain communities, particularly those where colleges or universities are located. It was testified that school vacations might necessitate the dumping of skim milk in months other than those specified in the present provision. A milk distributor in one of the areas proposed for annexation to the present marketing area made a similar request in connection with his own plant operation.

In view of the decision not to include Shoshone, Whitman and Latah Counties in the marketing area and since no difficult problems of milk disposal have arisen during the period the order has been in effect, it is concluded that the classification of skim milk dumped should continue to be made on the basis currently provided.

(c) A handler proposed the reclassification of "Mayo's Cocoa Mix" and similar products from Class I milk to Class II milk.

Proponent testified that the product referred to contains 11 percent nonfat milk solids, and in addition cocoa, sugar, stabilizer, salt and vanilla. The finished product has the body and viscosity of low fat ice cream mix. It is usually frozen at the milk processing plant and distributed at soda fountains where it is consumed in the form of a hot chocolate drink after the addition of water. The product is heated and continuously agitated in the soda fountain dispenser in order to keep the solids content in suspension. It is not required to be produced from inspected milk supplies although Grade A milk is currently being used in its manufacture.

Since this product is not required to be made from Grade A milk it is in direct competition, from a procurement standpoint, with supplies of ungraded whole milk, and possibly with nonfat dry milk. However, in view of its similarity in form to ice cream mix and the fact that it does not constitute a distress outlet for Grade A milk, any such milk utilized for this product should be classified and priced as Class II A milk rather than as Class II milk. The order is so revised.

(4) The definition of "pool plant" should be revised in part.

Two proposals to modify the delivery performance standards required of distributing plants for pool plant status were made by producer organizations in connection with proposals to expand the marketing area. One of the proposals relating to pool plant qualification would require that no distributing plant could qualify for the pool unless 50 percent or more of its total receipts of milk were disposed of as Class I milk on routes and at least 20 percent of such receipts were sold as Class I milk in the marketing area on routes. The second proposal of producers would establish such percentages at 60 and 20, respectively. One handler also testified in support of stricter delivery performance standards for distributing plants. At present a distributing plant may qualify for pool status if 5 percent or more of its receipts of milk are distributed as Class I milk in the marketing area on routes. In support of such proposals proponents indicated the need to prevent operators of plants not primarily in the fluid milk business, and not continuously associated to a substantial degree with the Inland Empire market from, "riding" the pool, and thus diluting returns to regular producers.

Because of the difference in marketing practices and functions between distributing plants and supply-type plants, two sets of performance standards are provided in the order. Although not specifically defined in the order the term "distributing plant", for the purpose of this discussion, means a plant from which Class I milk is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants). In contrast, the term "supply plant", for the purpose of this discussion, refers to a plant (other than a distributing plant) from which milk, skim milk or cream which is acceptable to an appropriate health authority for

distribution in the marketing area is shipped during the month to a distributing plant which is qualified as a pool plant. There were no proposals to revise the delivery performance standards applicable to the supply-type plant in qualifying for pool status, and no revision of such standards is made.

Essential to the operation of a marketwide pool in this area is the establishment of delivery performance standards to apply uniformly to all plants similarly situated. Any plant, regardless of its location, should have equal opportunity to comply with the standards and thereby to participate in the marketwide pool and have its dairy farmers share in the Class I sales of the market. Any dairy farmer who meets the necessary health inspection requirements should be permitted, under the order, to sell his milk to any plant meeting the standards of qualification as a "pool plant". Whether or not plants and dairy farmers choose to supply the Inland Empire market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Performance standards should be such that any plant which has as its major function the supplying of Grade A milk to the market may pool its sales and share in the marketwide equalization. On the other hand, plants only casually, or incidentally, associated with the market should not be subject to complete regulation, nor should they be permitted or required to equalize sales with all other plants in the market. If a milk plant were permitted to share on a prorata basis in the Class I utilization of the entire market without being genuinely associated with the market, the premiums or differentials paid by users of Class I milk would be dissipated without accomplishing their intended purpose. If a plant were qualified and fully regulated merely as the result of a token shipment therefrom of milk or cream into the market for sale as Class I milk, any distributor operating a milk plant with a smaller share of milk in Class I than the average for all regulated plants could make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be compliance with the necessary health inspection standards.

Since reserve milk is an essential part of any fluid milk business there will always be some excess milk in the plants of handlers supplying other markets. This is particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent sources of milk on which the Inland Empire market regularly may depend. If such plants were allowed to sell a token quantity of milk in the marketing area and pool their surplus whenever Class I outlets were not available to them, the result would be that such plants could maximize returns to their own dairy farmers at the expense of those producers who supply the long-run needs of the Inland Empire market through receipt of equalization payments from the Inland Empire pool.

Based on the record of the original hearing held on the Inland Empire order on May 24–June 2, 1955, it was concluded in the decision of the Assistant Secretary issued January 4, 1956, official notice of which is taken, that any distributing plant from which less than 5.0 percent of its receipts is disposed of in the marketing area during the month should be excluded from the "pool plant" definition. This was done in order that a distributor who might accidentally dispose of some fluid milk in the area would not be made subject to regulation and to prevent operators not primarily associated with the market from taking advantage of the pooling mechanism by distributing token quantities of milk in the marketing area. The above basis for exemption was established in the absence of indication in the original hearing that pool-riding would become a significant problem in the Inland Empire market.

A situation of this kind is, however, quite possible in the Inland Empire market under the terms of the present order. The operator of a cooperative plant located in the central part of Washington testified in the recent hearing that his dairy farmers are looking for any pool to which their milk might be shipped to improve their returns. Such plant, which has only a small portion of its Grade A milk receipts in Class I milk uses, is located in an area of relatively heavy milk production. It has no outlets for milk in the present marketing area or in the area as proposed to be extended by this decision. The representative of the plant referred to indicated that the milk supply of his plant would preferably remain in the pool under the Puget Sound order, where it is priced currently, if the uniform prices in the Inland Empire market were reduced by the entry into the pool of additional plants with substantial Class II milk operations. Plants with substantial quantities of milk in manufacturing uses are located at Ellensburg, Yakima and Sunnyside, in Washington, and at Wallowa, Oregon, all within a distance from which milk could be shipped readily to Spokane.

The Inland Empire market, however, would gain no advantage from the payment of equalization to a distributing plant not having a primary interest in the Inland Empire market. Such a distribution of equalization payments would, in fact, reduce the uniform prices to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market primarily depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately and dependably.

In order to qualify as a pool plant, a distributing plant therefore should be required to distribute at least 20 percent of its Grade A milk from dairy farmers and other plants during the month as Class I milk in the marketing area on retail or wholesale routes.

A distributing plant having more than 80 percent of its fluid milk business outside the marketing area or in other outlets should not be considered as genuinely associated with the market. It is not considered advisable to bring any such plant under full regulation because of the relatively small share of business done in the marketing area. Full regulation in such case would not be necessary to accomplish the purposes of the order, and might well place such plant at a competitive disadvantage in relation to its competitors in supplying unregulated markets, as well as avoid an adverse effect upon the returns of the regular Inland Empire producers.

Such a minimum is necessary also to avoid the possibility that a distributing plant not otherwise associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of making minor sales in the marketing area.

It is contemplated that only plants primarily engaged in route distribution of Class I milk should be qualified as pool plants under this portion of the pool plant definition. In order to preserve this distinction, a further condition for qualification is placed on the distributing plant: the total distribution therefrom of Class I milk on routes to wholesale or retail outlets both inside and outside the marketing area during the month must amount to at least 50 percent of its receipts of milk from dairy farmers and from other plants. Any plant which does not qualify on this basis should be deemed to be primarily a supply-type plant and its status under the pool should be judged by the standards applied to such plants.

Those plants from which milk for Class I uses is distributed regularly in the marketing area on routes at present may be expected, under normal circumstances, to dispose of milk in such a way as to exceed by a comfortable margin the minimum performance standards necessary to qualify as a pool plant. From time to time there may be, of course, plants supplying milk to the marketing area which will not qualify for pool status. Such plants will continue to be subject to partial regulation on the same basis as now provided.

(5) The compensatory payment provision should be applied in the case of other source milk received by a producer-handler and utilized as Class I milk; such payment should not be applied to other source milk received by handlers and utilized as Class I milk, or disposed of as Class I milk in the Inland Empire marketing area on routes by others, which is classified and priced under the provisions of another milk marketing agreement and order issued pursuant to the act.

It was stated in the decision of January 4, 1956, supporting issuance of the original Inland Empire order that "Since the order provides for the identification of that milk which is subject to total regulation under the order, the possibility remains that some milk will be disposed of in the marketing area as Class I milk which is not subject to total

regulation." It was stated also that a payment at the rate equal to the difference between the Class I and Class II milk prices is necessary on milk not subject to total regulation to maintain the integrity of the pricing and pooling provisions of the order.

The provision in the order which was designed to apply compensatory payments at a rate equal to the difference between the Class I and Class II milk prices on other source milk used as Class I milk did not indicate specifically whether other source milk received by a producer-handler would be subject to the payments. It is concluded that the order should be clarified in this respect so that such payment would apply to all other source milk received by a producer-handler, except milk of his own production and that received by him from a plant regulated by this order or any other marketing agreement or order issued under the statute. The price advantage which might otherwise accrue would tend to be disruptive in its effect on the market in the same manner as other source milk received by a fully regulated handler and so used.

It is not deemed necessary, however, in the circumstances which prevail in the Inland Empire market to apply the compensatory payment to any milk priced under another milk marketing agreement or order issued under the act, whether such milk is received by a fully regulated handler or distributed in the marketing area by a handler who is not fully regulated, such as a producer-handler. The alignment of prices between the Inland Empire market and other regulated markets which are potential sources of milk for the Inland Empire market is such that, after taking transportation costs into account, no price advantage is likely to accrue to the milk under another similar regulation when disposed of in the Inland Empire market. It is concluded that the order should be clarified to accomplish the above.

Certain revisions of the order have been made for the purpose of clarifying its terms. Some of these are self-explanatory. Other such changes are discussed below.

The Dairy Division, Agricultural Marketing Service, proposed that order language be clarified so that the reporting provisions would not apply to milk products which are received by a handler in finished or final form. At the time the order was promulgated, it was not intended to include in a handler's classification accounts milk products received at a pool plant in the form in which sold to consumers. The reporting section of the order is revised accordingly for clarification.

It is likely that at least two new pool plants will be qualified immediately as the result of the marketing area changes provided for herein. Since the effective date of the order amendments resulting from this proceeding will be subsequent to the beginning of the period used for computing bases currently in effect producers shipping milk to any new pool plant should have bases computed on the basis of their deliveries to such plant during the same period (September 1956–January 1957) in the manner of producers already on the market. During the ensuing base-operating period (March 1958–February 1959) bases for such producers should be computed on the basis of their deliveries to such plant and to other pool plants during the months September 1957–January 1958. The order so provides.

The base rules should be clarified so that wherever there is a joint operation of a farm production unit only one base shall apply. The present provision requires that where the land, buildings and equipment used are jointly owned or operated, one base shall apply. This language would not apply to a situation where the land is owned by one person and the buildings and equipment by another. A number of similar combinations of resources could be established to which the present provision of the order would not apply. The intent of the provision would be weakened thereby. The language provided will clarify the original intent of the provision.

Producers and handlers also testified concerning the transfer provisions of the base rules. It was their contention that the present language of such provision allows a producer to transfer his base to one person, and to sell his herd to another. It was proposed that the base accompany the herd in cases where the herd is sold to another person who produces milk for the market.

It was also contended that present order language permits a producer to transfer his current base and then obtain a base as a "new producer" prior to the next fall base-making period.

The latter practice would tend to inflate the total amount of base milk on the market to the disadvantage of other producers and should be discouraged. The base rules therefore are clarified to insure that a producer who transfers his base after the beginning of the base-operating period will not receive a percentage base in the same manner as a producer entering the market for the first time.

Although in certain instances under base plans effective only a few months of the year administrative convenience has dictated some limitation on base transfers, the transfer of base under a year-round application of bases may be left more appropriately to settlement between the parties involved in the transfer, provided that returns to other producers will not be adversely affected thereby. In view of the revisions made, it is concluded that other restrictions on the transfer of bases are not necessary.

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

Rulings on proposed findings and conclusions. Briefs were filed on behalf of certain interested parties in the market. These briefs 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 set forth in the briefs are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement regulating the handling of milk in the Inland Empire Marketing Area", and "Order amending the Order regulating the handling of milk in the Inland Empire Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of June 1957 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Inland Empire marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Referendum Order; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk

in the Inland Empire marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of June 1957 is hereby determined to be the representative period for the conduct of such referendum.

Alexander Swantz is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders, as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 10th day from the date this decision is issued.

Issued at Washington, D. C., this 10th day of September, 1957.

[SEAL] DON PAARLBERG,
Assistant Secretary.

Order[1] *Amending the Order Regulating the Handling of Milk in the Inland Empire Marketing Area*

Sec.

AUTHORITY: §§ 1008.60 to 1008.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 1008.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

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

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within such month of (i) other source milk (except other order milk) classified as Class I milk, and (ii) milk received from producers, including such handler's own production.

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

DEFINITIONS

§ 1008.1 *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 (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

§ 1008.2 *Secretary.* "Secretary" means the Secretary of Agriculture, or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1008.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this subpart.

§ 1008.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1008.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 1008.11 and which the Secretary determines, after application by the association:

(a) To be qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have its entire organization and all its activities under the control of its members; and

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(c) To be currently engaged in making collective sales of or marketing milk or its products for its members.

§ 1008.6 *Inland Empire marketing area.* "Inland Empire marketing area" (hereinafter called the "marketing area") means that portion of Bonner County, Idaho, lying south of Township 60 and west of Range 2 East Boise Meridian; all of Kootenai County, Idaho, except that portion lying east of Range 3 West Boise Meridian and south of Township 53; Boundary County, Idaho; Benewah County, Idaho; Spokane County, Washington; that portion of Pend Oreille County, Washington, lying south of Township 35; and that portion of Stevens County, Washington, lying south of Township 37. This definition shall include all municipal corporations, Federal military reservations, facilities, and installations and State institutions lying wholly or partly within the above-described area.

§ 1008.7 *Plant.* "Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained and operated primarily for the receiving, handling, or processing of milk or milk products: *Provided,* That this definition shall not include any platform or depot used primarily for the transfer of milk from one conveyance to another in the original milk containers.

§ 1008.8 *Pool plant.* "Pool plant" means any plant, other than the plant of a producer-handler or a plant at which the milk of dairy farmers is priced by another milk marketing agreement or order issued pursuant to the act, which is approved by any health authority having jurisdiction in the marketing area as a plant for the receiving of milk qualified for consumption as fluid milk in the marketing area and from which:

(a) Class I milk pursuant to § 1008.41 (a) (1), (2) and (3) in an amount not less than 20 percent of its receipts of milk qualified as described in § 1008.11 is distributed within the marketing area on routes (for the purpose of this section route shall mean a delivery to retail or wholesale outlets, including delivery by a vendor or a sale from a plant or plant store of milk or any milk product classified as Class I milk pursuant to § 1008.41 (a) (1), (2) or (3) other than a delivery to another pool plant): *Provided,* That the total quantity of Class I milk disposed of from such plant during the month either inside or outside the marketing area on routes is not less than 50 percent of such plant's total receipts of milk qualified as described in § 1008.11; or

(b) Milk, skim milk, or cream is forwarded to a plant described in paragraph (a) of this section: *Provided,* That no plant forwarding milk in such manner shall be a pool plant if the percentage which the quantity of either butterfat or skim milk in milk, skim milk, and cream so forwarded is of the amount thereof contained in milk (qualified as described in § 1008.11) received from dairy farmers at such plant is less than 50 percent in the current month during the period October through December, and 20 percent in the current month during the period January through September, except if the percentage forwarded was more than 50 percent of such receipts for the entire period October through December, no percentage shall be required for such months of January through September immediately following: *And provided further,* That any such plant which otherwise meets the requirements of this paragraph but is not a plant qualified as a pool plant under paragraph (a) of this section may withdraw from pool plant status for any month in the January–September period if the operator of such plant files with the market administrator prior to the first day of such month a written request for such withdrawal.

§ 1008.9 *Nonpool plant.* "Nonpool plant" means any plant other than a pool plant.

§ 1008.10 *Dairy farmer.* "Dairy farmer" means any person who operates a farm engaged in the production of milk.

§ 1008.11 *Producer.* "Producer" means any dairy farmer, other than a producer-handler, who produces milk of dairy cows under a dairy farm permit or rating issued by an appropriate health authority having jurisdiction in the marketing area for the production of milk qualified for disposition to consumers in fluid form within the marketing area.

§ 1008.12 *Producer milk.* "Producer milk" or "milk received from producers" means milk of any producer qualified as described in § 1008.11 and either (a) received directly from a farm at a pool plant, or (b) caused to be diverted by a handler for his account from such plant to a nonpool plant during any of the months of February through August: *Provided,* That milk from the same producer (or from a producer who previously held such producer's base) was received at a pool plant during some portion of the period September through January immediately preceding: *And provided further,* That for all purposes under this order such diverted milk shall be deemed to have been received at the pool plant from which diverted.

§ 1008.13 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts of milk and milk products in any of the forms specified in § 1008.41 (a) (1), (2) and (3) (including other order milk), except (1) such milk and milk products received from a pool plant(s) and (2) producer milk; and

(b) Products other than those specified in § 1008.41 (a) (1), (2) and (3) from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 1008.14 *Other order milk.* "Other order milk" means all skim milk and butterfat in any of the forms specified in § 1008.41 (a) (1), (2) or (3), received by a handler but the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any other milk marketing area.

§ 1008.15 *Handler.* "Handler" means:

(a) Any person engaged in the handling of milk in his capacity as the operator of a pool plant(s) or any other plant from which milk in any of the forms specified in § 1008.41 (a) (1), (2) and (3) is disposed of, either directly or indirectly, to any place or establishment within the marketing area other than a plant.

(b) Any cooperative association, which is not a handler pursuant to paragraph (a) of this section, with respect to producer milk caused to be diverted from a pool plant to a nonpool plant for the account of such association.

§ 1008.16 *Producer-handler.* "Producer-handler" means any person who is both a dairy farmer and a handler, but who receives no milk from other dairy farmers: *Provided,* That such person provides proof satisfactory to the market administrator that (a) the maintenance, care, and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled is the personal enterprise of and at the personal risk of such person in his capacity as a dairy farmer, and (b) the operation of a plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 1008.17 *Base.* "Base" means a quantity of milk, expressed in pounds per day or per month, computed pursuant to § 1008.60 (a) and (b), respectively.

§ 1008.18 *Base milk.* "Base milk" means milk received from a producer at a pool plant during the month in an amount which is not in excess of:

(a) Such producer's daily base computed pursuant to § 1008.60 (a) multiplied by the number of days of delivery in such month: *Provided,* That with respect to any producer on "every-other-day" delivery to a pool plant the intervening days of nondelivery shall be considered as days of delivery for the purposes of this section and § 1008.60; or

(b) His base computed pursuant to § 1008.60 (b).

§ 1008.19 *Excess milk.* "Excess milk" means milk delivered by a producer in excess of base milk.

MARKET ADMINISTRATOR

§ 1008.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be designated by, and shall be subject to removal at the discretion of, the Secretary.

§ 1008.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1008.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon 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 out of funds provided by § 1008.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1008.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or 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, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 1008.30 to 1008.32, inclusive; or

(2) Made one or more of the payments pursuant to §§ 1008.80 to 1008.88, inclusive.

(i) On or before the 16th day after the end of each month, report to each cooperative association (or its duly designated agent) which so requests the class utilization of milk caused to be delivered by such cooperative association directly from farms of producers who are members of such cooperative association to each handler to whom the cooperative association sells milk. For the purpose of this report, the milk caused to be so delivered by such cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

(j) On or before the 12th day after the end of each month, notify:

(1) Each handler whose total value of milk is computed pursuant to § 1008.70 (a) of:

(i) The amounts and values of his producer milk in each class and the totals of such amounts and values;

(ii) The amount of any charge made pursuant to § 1008.70 (a) (5);

(iii) The uniform prices for base milk and excess milk;

(iv) The totals of the amounts computed in the manner provided by § 1008.80 (a);

(v) The amount due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund, as the case may be; and

(vi) The totals of the amounts required to be paid by such handler pursuant to §§ 1008.87 and 1008.88.

(2) Each handler whose total value of milk is computed pursuant to § 1008.70 (b) of the pounds of other source milk on which payment is required to be made and the amount due the producer-settlement fund from such handler.

(k) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 6th day of each month the minimum price for Class I milk pursuant to § 1008.51 (a) and the Class I butterfat differential pursuant to § 1008.52 (a), both for the current month; and the respective minimum prices for Class II A milk and Class II milk pursuant to § 1008.51 (b) and (c) and the Class II butterfat differential pursuant to § 1008.52 (b), both for the preceding month; and

(2) On or before the 12th day of each month, the uniform price(s) computed pursuant to § 1008.71 and the butterfat differential(s) computed pursuant to § 1008.82, both applicable to producer milk received during the preceding month.

(l) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 1008.30 *Monthly reports of receipts and utilization.* On or before the 7th day of each month, in the detail and on forms prescribed by the market administrator, each handler shall submit to the market administrator a report for such handler's pool plant(s) and with respect to milk or milk products subject to payments required under § 1008.70 (b), containing the following information for the preceding month:

(a) The quantities of skim milk and butterfat contained in milk received from producers;

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

(c) The quantities of skim milk and butterfat contained in other source milk (including other order milk) received (except manufactured milk products of the types covered by Class II A milk and Class II milk in § 1008.41 disposed of in the form in which received without further processing by the handler);

(d) Inventories of items included in Class I milk on hand at the beginning of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including (1) the pounds of skim milk and butterfat on hand at the end of each month as items included in Class I milk; and (2) a separate statement as to the amount of Class I milk disposed of on wholesale or retail routes (other than to plants) entirely outside the marketing area.

(f) The aggregate quantities of base milk and excess milk received; and

(g) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 1008.31 *Payroll reports.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of base milk and the total pounds of excess milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(b) The amount of payment to each producer and cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 1008.32 *Other reports.* (a) At such times and in such manner as the market administrator may prescribe each handler shall report to the market administrator such information in addition to that required under § 1008.30 as may be requested by the market administrator with respect to milk and milk products handled by him.

(b) As requested by the market administrator, each producer-handler shall report to the market administrator relative to his receipts, utilization, and disposition of milk and milk products.

(c) As requested by the market administrator, each handler shall report the total quantity of milk received from each producer and the number of days of such delivery for each month beginning with September 1956.

§ 1008.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations (and summaries thereof customarily maintained) and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to the information required to be reported pursuant to §§ 1008.30, 1008.31, and 1008.32 and to payments required to be made pursuant to §§ 1008.80 through 1008.88.

§ 1008.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to

begin at the end of the 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 8 (c) (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market adminstrator. 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.

§ 1008.35 *Handler report to producers.* (a) In making payments to producers pursuant to § 1008.80, each handler, on or before the 17th day of each month, shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month (1) the identification of the handler and the producer; (2) the total pounds of milk delivered by the producer and the average butterfat test thereof, the pounds of base and excess milk, and the pounds per shipment if such information is not furnished to the producer each day of delivery; (3) the minimum rate(s) at which payment to the producer is required under the provisions of § 1008.80; (4) the rate(s) used in making the payment, if such rate(s) is other than the required minimum rate(s), (5) the amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and (6) the net amount of payment to the producer.

(b) In making payment to a cooperative association in aggregate pursuant to § 1008.80 (b) each handler upon request shall furnish to the cooperative association, on or before the 16th day of each month, with respect to each producer for whom such payment is made, all the information specified in paragraph (a) of this section.

CLASSIFICATION

§ 1008.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 1008.30 shall be classified by the market administrator pursuant to the provisions of §§ 1008.41 through 1008.45, inclusive.

§ 1008.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1008.42, 1008.43, and 1008.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat: (1) Disposed of in fluid or frozen form as milk, skim milk (including fortified skim milk), skim milk drinks, buttermilk, flavored milk, flavored milk drinks, and cream (sweet or sour), but not including any of the above items if sterilized and packaged in metal containers hermetically sealed; (2) used in the production of concentrated milk, skim milk, flavored milk and flavored milk drinks not sterilized (but not including (i) those products commonly known as evaporated milk, condensed milk, and condensed skim milk, (ii) flavored milk or flavored milk drink sterilized and packaged in metal containers hermetically sealed; and (iii) any item named in this subparagraph disposed of pursuant to paragraph (b) (3) of this section); (3) disposed of as any fluid mixture containing cream and milk or skim milk (but not including ice cream and other frozen dessert mixes disposed of to a commercial processor, cocoa mixes, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, evaporated or condensed products, eggnog and yogurt); (4) shrinkage of producer milk in excess of that pursuant to paragraph (b) (6) of this section and shrinkage allocated to receipts from other handlers pursuant to § 1008.42 (b); and (5) not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than those included under paragraphs (a) (1), (2), (3), and (c) of this section; (2) disposed of (skim milk only) for livestock feed, or dumped during April, May, June, or July: *Provided*, That in the case of skim milk dumped, the market administrator is given not less than 6 hours' notice of the handler's intention to make such disposition; (3) disposed of in bulk in any of the forms specified in paragraph (a) (1), (2), and (3) of this section (i) to bakeries, soup companies and candy manufacturing establishments in their capacity as such, (ii) to nonpool plants subject to the conditions of § 1008.44 (b) (2); (4) disposed of in any of the forms specified in paragraph (a) (1), (2), and (3) of this section if sterilized and packaged in metal containers hermetically sealed; (5) contained in inventories of items included in paragraph (a) (1), (2), and (3) of this section on hand at the end of the month; (6) in actual shrinkage of producer milk computed pursuant to § 1008.42 but not in excess of 2 percent of the quantities of skim milk and butterfat, respectively, in producer milk; and (7) in actual shrinkage of other source milk computed pursuant to § 1008.42.

(c) Class II A milk shall be all skim milk and butterfat used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes, and cottage, pot and bakers' cheeses (and shall be included in Class II milk for all purposes of this order except as otherwise expressly stated).

§ 1008.42 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

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

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, among the pounds of producer milk, other source milk, and receipts from other handlers.

§ 1008.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat proves that such skim milk and butterfat should be classified as Class II milk.

(b) The burden shall rest upon each handler to establish the sources of milk and milk products required to be reported by him pursuant to § 1008.30.

(c) Except as provided in § 1008.44 (b) (1), any skim milk or butterfat classified on the basis of its use in one product shall be reclassified if used or reused by any handler in another product.

§ 1008.44 *Inter-plant movements.* Skim milk and butterfat transferred as any item specified in § 1008.41 (a) (1), (2), and (3) from a pool plant to another plant shall be assigned (separately) to each class in the following manner:

(a) From a pool plant to another pool plant: As Class I milk unless another class use is indicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the month within which such transfer was made: *Provided*, That if either or both plants received any other source milk, the quantity transferred shall be classified at both plants so as to allocate the highest possible utilization to producer milk: *And provided further*, That (1) milk received from a plant subject to location adjustments shall be assigned to Class I milk in the transferee-plant after producer milk receipts and any receipts from plants subject to no location adjustment are assigned to Class I milk; and (2) if milk is received from more than one transferor-plant, assignment to the available Class I milk in the transferee-plant shall be made in sequence according to the location adjustment applicable at each transferor-plant beginning with the plant having the least location adjustment.

(b) From a pool plant to a nonpool plant: Such transfer(s) (also diverted milk) shall be classified as provided below, except that if the market administrator is not permitted to audit the records of the nonpool plant(s) for the purpose of use verification, the entire transfer shall be classified as Class I milk:

(1) As Class I milk, if the transfer (or diversion) is to a nonpool plant which is engaged in the distribution of milk for consumption in fluid form (except as provided in subparagraph (2) of this paragraph) to the extent that milk is disposed of as any of the items specified in § 1008.41 (a) (1), (2), and (3) from the receiving plant.

(2) As Class II milk, if the transfer (or diversion) is to a nonpool plant which is not engaged in the distribution of milk for consumption in fluid form or is engaged in the processing and distribution of milk for fluid consumption which is sterilized and packaged in metal containers hermetically-sealed: *Provided*, That if such nonpool plant disposes of skim milk or butterfat in any of the forms specified in § 1008.41 (a) (1), (2), and (3) to any other nonpool plant distributing milk in fluid form,

such disposition, up to the quantity of milk transferred or diverted to the first nonpool plant, shall be classified as Class I milk: *And provided further,* That with respect to the milk to which the preceding proviso does not apply, the remaining transferred or diverted quantity shall be deemed to have been utilized first for the manufacture of Class II A milk products to the extent that such products were produced at such nonpool plant.

§ 1008.45 *Computation of the quantity of producer milk in each class.* For each handler the market administrator shall:

(a) Correct for mathematical and for other obvious errors the monthly report submitted by such handler and compute the total pounds of skim milk and butterfat in each class: *Provided,* That when nonfat milk solids derived from nonfat dry milk solids, condensed skim milk, or any other product condensed from milk or skim milk, are utilized by such handler (1) to fortify (or as an additive to) fluid milk, flavored milk, skim milk, or any other milk product, or (2) for disposition in reconstituted form as skim milk or a milk drink, the total pounds of skim milk computed for the appropriate class of use shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids; and

(b) Allocate skim milk in the following manner:

(1) Subtract from the pounds of skim milk in Class II milk the pounds of skim milk shrinkage allowed pursuant to § 1008.41 (b) (6);

(2) Subtract from the pounds of skim milk in Class II milk the pounds of skim milk in other source milk received (other order milk to be subtracted last) and in overage allocated to other source milk (§ 1008.70 (a) (4)): *Provided,* That if more than one source of other source milk is involved, the skim milk shall be subtracted in sequence beginning with the source at greatest distance from the City Hall, Spokane, Washington: *And provided further,* That if the receipts of skim milk in other source milk plus the overage allocated to other source milk are greater than the pounds of skim milk in Class II milk, the balance shall be subtracted in sequence from the pounds of skim milk in Class II A milk and in Class I milk;

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of items included in § 1008.41 (a) (1), (2) and (3) on hand at the beginning of the month: *Provided,* That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted in sequence from the pounds of skim milk remaining in Class II A milk and in Class I milk;

(4) Subtract from the remaining pounds of skim milk in each class, respectively, the skim milk received from other pool plants and assigned to such class pursuant to § 1008.44;

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

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class beginning with Class II milk.

(c) Allocate butterfat in accordance with the procedure prescribed for skim milk in paragraph (b) of this section.

(d) Add together for each class the quantities of skim milk and butterfat in such class computed pursuant to paragraphs (b) and (c) of this section and compute the weighted average butterfat content of such class.

MINIMUM PRICES

§ 1008.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in computing the price per hundredweight of Class I milk for the current month shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section for the preceding month:

(a) Divide by 3.5 and then multiply by 4.0 the average of the basic, or field, prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from dairy farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department.

Present Operator and Location

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

(b) The price per hundredweight computed by the market administrator from the following formula:

(1) Multiply by 4.8 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the simple average of the weighted averages of carlot prices per pound for 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 immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 67 cents.

§ 1008.51 *Class prices.* Subject to the differentials provided in §§ 1008.52 and 1008.53 the following are the minimum prices per hundredweight to handlers for Class I milk, Class II A, and Class II milk:

(a) *Class I milk.* For each month the price for Class I milk shall be the basic formula price rounded to the nearest cent, plus $1.90 adjusted by the amount computed pursuant to paragraph (d) of this section.

(b) *Class II A milk.* The price for Class II A milk shall be the price computed pursuant to paragraph (c) of this section, plus 25 cents per hundredweight.

(c) *Class II milk.* The price for Class II milk shall be that computed by the market administrator from the formula set forth in subparagraphs (1), (2), and (3) of this paragraph.

(1) Add 3 cents to the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, and multiply the result by 4.8: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

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

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 80 cents and round to the nearest cent.

(d) *Supply-demand adjustment.* On or before the 6th day of each month the market administrator shall make the following computations based upon information obtained from handler's reports of receipts and utilization:

(1) Determine the total receipts of producer milk by all handlers (including receipts from a handler's own farm production) during the second and third months preceding;

(2) Determine the total pounds of milk and milk products disposed of from pool plants as Class I milk (excluding shrinkage, unaccounted for milk, and any duplications resulting from interhandler transfers) during the same two months; and

(3) Divide the amount obtained in subparagraph (2) of this paragraph by the amount obtained in subparagraph (1) of this paragraph, and adjust to the nearest full percentage point. The resulting percentage shall be known as the "current supply-demand ratio."

(4) Whenever the current supply-demand ratio varies from the standard utilization percentage for the current month set forth in the following table the Class I price shall be increased or decreased 5.0 cents for each full percentage point that the current supply-demand ratio is above or below, respectively, the percentage for such month set forth in the table, but such price shall

not be increased or decreased more than 50 cents for any month because of the current supply-demand ratio:

Month to which applicable	Standard percentages	Months used in computing current supply-demand ratio
January	84	October–November.
February	83	November–December.
March	80	December–January.
April	82	January–February.
May	81	February–March.
June	79	March–April.
July	70	April–May.
August	64	May–June.
September	66	June–July.
October	69	July–August.
November	75	August–September.
December	81	September–October.

§ 1008.52 *Butterfat differentials to handlers.* If the average butterfat content of Class I milk or Class II milk, computed pursuant to § 1008.45, for any handler for any month differs from 4.0 percent, there shall be added to, or subtracted from, the applicable class price (§ 1008.51) for each one-tenth of 1 percent that the average butterfat content of such class is respectively above, or below, 4.0 percent, a butterfat differential computed by the market administrator as follows:

(a) *Class I milk.* Add 3 cents to the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter at Chicago, as reported by the Department during the preceding month, multiply the result by 0.123, and round to the nearest tenth of a cent: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

(b) *Class II milk and Class II–A milk.* Add 3 cents to the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter at Chicago, as reported by the Department, during the month, multiply the result by 0.115, and round to the nearest tenth of a cent: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

§ 1008.53 *Location adjustment credits to handlers.* The price for Class I milk at a pool plant located more than 50 miles from the City Hall, Spokane, Washington, shall be, regardless of point of sale within or outside the marketing area, the same as the price for Class I milk pursuant to § 1008.51 (a), less a location adjustment per hundredweight of milk computed as follows: 3 cents for each 10 miles, or major fraction thereof, up to 100 miles, an additional 2.0 cents for each 10 miles, or major fraction thereof, for distances in excess of 100 miles but not more than 200 miles, and an additional 1.0 cent for each 10 miles, or major fraction thereof, in excess of 200 miles, by the shortest hard-surfaced highway distance, as determined by the market administrator, from such pool plant to the City Hall, Spokane, Washington.

§ 1008.54 *Use of equivalent prices.* If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

DETERMINATION OF BASE

§ 1008.60 *Computation of producer bases.* Subject to the rules set forth in § 1008.61 the market administrator shall determine bases for producers in the following manner:

(a) The daily base of each producer whose milk was received at a pool plant(s) on not less than 120 days during the months of September through January, inclusive, shall be an amount computed by dividing such producer's total pounds of milk delivered to a pool plant in such five-month period by the number of days from the date of his first delivery to the end of such five-month period: *Provided,* That the daily base of any producer who delivered milk on not less than 120 days during such September–January period to a plant which subsequently qualified as a pool plant shall be computed, in similar manner, on the basis of such producer's deliveries to such plant in such September–January period. The base so computed, which shall be recomputed each year, shall become effective on the first day of March next following and shall remain in effect through the month of February of the next succeeding year.

(b) The base of any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section (including any producer for whom a base may not be computed pursuant to this section because of lack of available information concerning such producer's deliveries in the applicable September–January period) shall be a quantity, to be effective for the current month only, computed by multiplying his deliveries to a pool plant(s) during the month by the appropriate monthly percentage in the following table:

January	80	July	65
February	75	August	70
March	70	September	75
April	60	October	80
May	60	November	80
June	60	December	80

§ 1008.61 *Base rules.* The following rules shall be observed in determination of bases:

(a) A base computed pursuant to § 1008.60 (a) may be transferred in its entirety to another producer upon written notice to the market administrator on or before the last day of the month of transfer, but only if a producer sells, leases, or otherwise conveys his herd to the same producer and it is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this part: *Provided,* That all deliveries of milk by a producer who has transferred his base to another producer shall be excess milk until March 1 next following such transfer.

(b) A producer who ceases deliveries to a pool plant for more than 45 consecutive days shall lose his base if computed pursuant to § 1008.60 (a) and if he resumes deliveries to such a plant he shall be paid on a base determined pursuant to § 1008.60 (b) until he can establish a new base under § 1008.60 (a), to begin the next March 1.

(c) By notifying the market administrator in writing on or before the 15th day of any month, a producer holding a base established pursuant to § 1008.60 (a) may relinquish such base by cancellation, and effective from the first day of the month in which notice is received by the market administrator until the next March 1 such producer's base shall be computed in the manner provided by § 1008.60 (b).

(d) As soon as bases computed by the market administrator under § 1008.60 (a) and (b) are allotted, notice of the amount of each producer's base shall be given by the market administrator to the handler receiving such producer's milk and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place at each of his plants a list (or lists) showing the base of each producer whose milk is received at such plant.

(e) If a producer operates more than one farm, he shall establish a separate base with respect to producer milk delivered from each such farm.

(f) Only producers as defined in § 1008.11 may establish or earn a base pursuant to the provisions of § 1008.60 (a) or (b) and only one base shall be allotted with respect to milk produced by two or more persons where the land, buildings, or equipment used are jointly owned or operated.

DETERMINATION OF UNIFORM PRICE

§ 1008.70 *Computation of value of milk.* (a) The total value of milk received during any month by each handler, including any cooperative association which is a handler, shall be a sum of money computed by the market administrator as follows:

(1) Multiply the pounds of producer milk in each class for such month by the class price (§ 1008.51) and add together the resulting amounts;

(2) Deduct the total amount of all location adjustment credits computed in accordance with § 1008.53;

(3) Add or subtract, as the case may be, the amount necessary to correct errors as disclosed by the verification of the reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

(4) Add, if such handler had overage, an amount computed by multiplying the pounds of such overage (except overage prorated to other source milk) deducted from each class pursuant to § 1008.45 by the applicable class price: *Provided,* That if (i) overage results in a pool plant having receipts of other source milk, the total overage shall be prorated between other source milk and all other receipts, and (ii) overage results in a nonpool

plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, and the transferor handler shall be charged at the applicable class price for the amount of overage allocated to the transferred quantity.

(5) Add, with respect to other source milk (including overage allocated to other source milk but excluding other order milk) received at each pool plant of such handler in excess of the total volume of his Class II milk (except allowable shrinkage) at such plant, an amount computed by multiplying the hundredweight of such other source milk by the difference between the Class I milk and Class II milk (other than Class II A) prices adjusted, respectively, by the butterfat differentials provided in § 1008.52 (based on the butterfat test of such other source milk): *Provided,* That if the plant supplying such milk is located outside the marketing area and more than 50 miles from the City Hall, Spokane, Washington, the rate of payment per hundredweight of milk otherwise required by this subparagraph shall be reduced by the rate of location adjustment provided in § 1008.53 for the distance such plant is located from the City Hall, Spokane, Washington, but not to exceed $1.90 per hundredweight.

(6) Add the amount computed by multiplying the difference between the Class II price (§ 1008.51 (c)) for the preceding month and the Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1008.45 (b) (4) and (c) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1008.45 (b) (3) and (c) for the current month, whichever is less.

(b) The value of milk (except other order milk) of each handler at any plant where only other source milk was received and from which, during the month, some other source milk was disposed of in the marketing area as any item included in Class I milk pursuant to § 1008.41 (a) (1), (2), or (3) shall be a sum of money computed by the market administrator by multiplying the hundredweight of other source milk so disposed of by the difference between the Class I and Class II milk (other than Class II A) prices, adjusted by the butterfat differentials provided in § 1008.52 (based on the butterfat test of such other source milk), and by the same rate of location differential), if any, provided in paragraph (a) (5) of this section: *Provided,* That a producer-handler shall not be obligated for payments under this paragraph with respect to that portion of other source milk represented by his own farm production.

§ 1008.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1008.70 for all handlers who made the reports prescribed in § 1008.30 and who made the payments pursuant to § 1008.84 for the preceding month;

(b) Add the aggregate of values of the location adjustments on base milk allowable pursuant to § 1008.81;

(c) Add an amount representing not less than one-half the unobligated cash balance in the producer-settlement fund;

(d) Subtract, if the average butterfat content of the milk represented by the values included under paragraph (a) of this section is greater than 4 percent, or add, if such average butterfat content is less than 4 percent, an amount computed by multiplying the amount by which the average butterfat content of base and excess milk varies from 4 percent by the appropriate butterfat differentials computed pursuant to § 1008.82, and multiply the resulting figures by the respective hundredweights of base and excess milk;

(e) Multiply the hundredweight of excess milk by the Class II (other than Class II A) price for 4.0 percent milk;

(f) Compute the total value of base milk by subtracting the amount computed pursuant to paragraph (e) of this section from the net amount computed pursuant to paragraph (d) of this section: *Provided,* That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I milk price (for 4.0 percent milk) plus 4 cents, such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

(g) Divide the net amount obtained in paragraph (f) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 4.0 percent butterfat content; and

(h) Divide the sum of the amount obtained in paragraph (e) of this section and any amount subtracted pursuant to the proviso of paragraph (f) of this section by the hundredweight of excess milk, and subtract any fractional part of one cent. This result shall be known as the uniform price per hundredweight of excess milk of 4.0 percent butterfat content.

PAYMENTS

§ 1008.80 *Time and method of payment to producers and to cooperative associations.* (a) On or before the 17th day after the end of each month, each handler, including a cooperative association which is a handler, shall make payment to each producer, for milk received at his plant from such producer during such month pursuant to subparagraphs (1) and (2) of this paragraph: *Provided,* That such payment shall be made, upon request, to a cooperative association, or to its duly authorized agent, qualified under § 1008.5 with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this proviso shall be made on or before the 16th day after the end of such month: *And provided further,* That, if by such date such handler has not received full payment for such month pursuant to § 1008.85, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the location adjustment computed pursuant to § 1008.81 and by the butterfat differential computed pursuant to § 1008.82.

(2) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1008.82.

(b) On or before the 16th day after the end of each month each handler shall pay to each cooperative association which operates a pool plant for skim milk and butterfat received from such cooperative association during such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class (pursuant to § 1008.41) by the class price.

(c) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c (5) (F) of the act from making payment for milk to its producers in accordance with such provision of the act.

§ 1008.81 *Location adjustments to producers.* In making payment to producers pursuant to § 1008.80 for milk received at a pool plant to which the provisions of § 1008.53 apply, the uniform price per hundredweight for base milk shall be reduced at the same rate per hundredweight as is applicable to Class I milk at such plant pursuant to § 1008.53.

§ 1008.82 *Producer butterfat differential.* In making payments pursuant to § 1008.80 (a) for base milk and for excess milk, there shall be added to, or subtracted from, the uniform prices thereof for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, butterfat differentials computed by the market administrator as follows:

(a) The butterfat differential for base milk shall be computed by multiplying the butterfat differential for Class I milk by the percentage of the butterfat contained in base milk that is allocated to Class I, and by multiplying the remaining percentage of butterfat within base milk by the butterfat differential for Class II milk, adding together the resulting amounts, and rounding to the nearest tenth of a cent.

(b) The butterfat differential for excess milk shall be the same as the butterfat differential for Class II milk.

§ 1008.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to § 1008.84 and out of which he shall make all payments to handlers pursuant to § 1008.85.

§ 1008.84 *Payments to the producer-settlement fund.* (a) On or before the 14th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, whose obligation is computed pursuant to § 1008.70 (a) shall pay to the market administrator the amount, if any, by which the total value of such handler's milk as determined pursuant to § 1008.70 is greater than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 1008.80 (a).

(b) Each handler (including any handler who may also have an obligation pursuant to paragraph (a) of this section) who disposes of milk as described in § 1008.70 (b) shall pay the amount computed for him pursuant to such paragraph.

§ 1008.85 *Payments out of the producer-settlement fund.* On or before the 15th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the total value of such handler's milk as determined pursuant to § 1008.70 is less than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 1008.80 (a), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1008.84, 1008.86, 1008.87, and 1008.88: *Provided*, That, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1008.86 *Adjustments of accounts.* Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money 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 provisions under which such error occurred following the 5th day after such notice.

§ 1008.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1008.80 (a), shall make a deduction of 5 cents per hundredweight of milk, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association;

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(3) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth below in this paragraph is not being performed by such association(s), as determined by the market administrator. Such deduction shall be paid by the handler to the market administrator on or before the 14th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and taking of deduction therefor to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1008.80 (a) the amount per hundredweight of milk authorized by such producer and shall pay over, on or before the 16th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

§ 1008.88 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler, including any cooperative association which is a handler but not including a producer-handler, shall pay to the market administrator on or before the 14th day after the end of each month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within such month of (a) other source milk (except other order milk) classified as Class I milk, and (b) milk received from producers, including such handler's own production.

§ 1008.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the 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 obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the 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.

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

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1008.90 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1008.91.

§ 1008.91 *Suspension or termination.* The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 1008.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1008.93 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expense of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1008.100 *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.

§ 1008.101 *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.

[F. R. Doc. 57-7543; Filed, Sept. 12, 1957; 8:55 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 7, 8]

[Docket No. 11374; FCC 57-971]

STATIONS ON LAND AND SHIPBOARD IN THE MARITIME SERVICES

ORDER SCHEDULING ORAL ARGUMENT

In the matter of amendment of Parts 7 and 8 of the Commission's rules to delete the frequencies 6240 and 6455 kc and to make 4372.4 kc available on a full-time basis for ship and coast stations using radiotelephony on the Mississippi River and connecting inland waters (except the Great Lakes); Docket No. 11374.

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C. on the 5th day of September 1957.

The Commission having under consideration matters of record in the above-entitled proceeding; a petition by American Waterways Operators, Inc. that Oral Argument before the Commission en banc be scheduled; and a pleading submitted by the Commission's General Counsel concurring in the request;

It appearing that hearing in the above-entitled proceeding has been held and the record certified to the Commission for decision;

It further appearing that oral argument would be of assistance to the Commission in its determination of the issues;

It further appearing that the exigencies of time which led the Commission to instruct that the record be certified to it for decision also require that oral argument be held at the earliest opportunity;

It is ordered, That oral argument on the matters of record in the above-entitled proceeding be held before the Commission en banc on September 26, 1957, at 10:00 a. m. and, that each of the parties be allowed 20 minutes except that a single 20 minute period be assigned to the General Counsel, Chief, Safety and Special Radio Services Bureau, and Chief, Common Carrier Bureau.

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

[F. R. Doc. 57-7515; Filed, Sept. 12, 1957; 8:50 a. m.]

[47 CFR Part 12]

[Docket No. 12160; FCC 57-972]

AMATEUR RADIO SERVICE

OPERATION AWAY FROM AUTHORIZED LOCATIONS

1. Notice is hereby given of Proposed Rule Making in the above-entitled matter.

2. The Commission has before it for consideration a petition filed by Malcom A. Hormats seeking amendment of §§ 12.91 and 12.93 of its Rules Governing the Amateur Radio Service so as to provide that only one notice be required in the case of operation away from the authorized location, provided, that an additional notice will be required each time there is any change in the information supplied in the original notice. The Commission is also in receipt of a letter submitted on behalf of the Maritime Mobile Amateur Radio Club requesting that only one notice be required in the case of operation aboard ships, making repeated voyages over the same routes so long as "significant particulars" of such operation remain unchanged.

3. Sections 12.91 and 12.93 of the Commission's rules presently provide, among other things, that an amateur station may be operated away from the fixed transmitter location specified in the license for periods in excess of 48 hours only after written notice, containing specified information, has been given to the Commission of the intention to so operate. If such operation continues for a period in excess of one month, additional notices must be given for each month that such operation continues. An exception is made if the operation away from the authorized location occurs outside the continental limits of the United States, its territories, or possessions. In this instance only one notice is required "during any one continued absence".

4. The petitioner, Malcolm A. Hormats, contends that the monthly notices required by §§ 12.91 and 12.93 are of little or no value to the Commission in those instances where the operation of the station is merely being continued in accordance with the information supplied in the original notice, but that the requirement of such notices is unduly burdensome upon the involved amateurs. The letter, filed on behalf of the Maritime Mobile Amateur Radio Club, likewise contends that amateurs operating "mobile" aboard ships which make recurrent voyages over the same general routes should not be required to submit a new notice each time the ships return to a United States port unless there is some change in the information supplied in the original notice because "strict compliance with this provision is sometimes exceedingly difficult of accomplishment due to the peculiarities of the movement of ships in which, frequently, there is insufficient time to properly notify the Commission at the conclusion of one voyage and the commencement of a second voyage."

Both petitioner Hormats and the Maritime Mobile Amateur Radio Club contend that the changes requested would benefit not only the amateur licensees but would also benefit the Commission because, in their view, such changes in the Rules involved would result in a reduction in the Administrative work of field offices "with no relaxation of the Commission's requirements".

5. The Commission, believing that its rules applicable to operation of amateur radio stations away from authorized transmitter locations should be revised, proposes to amend Part 12 of its rules by adding a new § 12.90, and amending §§ 12.91 and 12.93. The principal effects of such proposed amendment are:

(a) To consolidate within one section all notice requirements, other than designation of the Commission office or offices to be notified in specific instances, when an amateur station is to be operated away from the authorized transmitter location;

(b) To provide that only one notice of operation away from the authorized transmitter location be required for periods not exceeding one year upon the condition that additional notices will be required whenever there is a change in the information contained in the previous notice; and

(c) To provide that the notice required when an amateur station is to be operated away from the authorized location contain the following specific information in addition to that presently required: The address at which, or through which, the licensee may be readily reached while operating away from the authorized transmitter location; and when operating as a mobile station, the official name, registry number or license

number of the aircraft, vessel or land vehicle from which the station will be operated.

6. The proposed amendments, authority for which is contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended, are set forth below.

7. Any interested party who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before November 22, 1957 a written statement or brief setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to original comments may be filed within ten days from the last day for filing original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission, or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments that are submitted before taking action in these matters and, if any comments appear to warrant the holding of a hearing or oral argument, a notice of the time and place of such hearing or oral argument will be given.

8. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and three copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: September 5, 1957.

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

It is proposed to amend Part 12 of the Commission's rules governing the amateur radio service in the following particulars:

1. Delete the centerheading which presently appears immediately following § 12.82 and substitute the following:

"Station operation away from authorized location."

2. Add a new § 12.90 to read as follows:

§ 12.90 *Requirements for portable and mobile operation.* (a) Within the continental limits of the United States, its territories, or possessions, an amateur station may be operated as either a portable or a mobile station on any frequency authorized and available for the amateur radio service. Notice of such operation in accordance with the provisions of § 12.91 shall be given to the Engineer in Charge of the radio district in which operation is intended.

(b) When outside the continental limits of the United States, its territories, or possessions, an amateur radio station may be operated as portable or mobile only under the following conditions:

(1) Operation may not be conducted within the jurisdiction of a foreign government except pursuant to, and in accordance with, expressed authority granted to the licensee by such foreign government. When a foreign government permits Commission licensees to operate within its territory, the amateur frequency bands which may be used shall be as prescribed or limited by that government. (See Appendix 4 of this part for the text of treaties or agreements between the United States and foreign governments relative to reciprocal amateur radio operation.)

(2) When outside the jurisdiction of a foreign government, operation may be conducted only in the amateur frequency bands 21.00 to 21.45 and 28.0 to 29.7 Mc.

(3) Notice of such operation, in accordance with the provisions of § 12.91, shall be given to the Engineer in Charge of the district having jurisdiction of the authorized fixed transmitter location.

3. Delete the text of § 12.91 and insert the following language:

§ 12.91 *Notice of operation.* Whenever an amateur station is, or is likely to be, operated for a period in excess of 48 hours away from the fixed transmitter location specified on the station license without return thereto, the licensee shall give advance written notice of such operation to the Commission office or offices specified in §§ 12.90 or 12.93. A new notice is required whenever there is any change in the particulars of a previous notice or whenever operation away from the authorized station continues for a period in excess of one year. The notice required by this section shall contain the following specific information:

(a) Name of licensee.

(b) Station call sign.

(c) Authorized fixed transmitter location.

(d) Portable location(s), or mobile itinerary as specifically as possible, or temporary fixed transmitter location, or new permanent fixed transmitter location.

(e) The dates of the beginning and end of each period of operation away from the location specified in the station license.

(f) The address at which, or through which, the licensee can be readily reached.

(g) In the case of mobile operation, the official name, registry number or license number (including the name of the issuing state or territory, if any) of the aircraft, vessel, or land vehicle in which the mobile station is installed and operated.

4. Delete the text of § 12.93 and insert the following language:

§ 12.93 *Special requirements for nonportable stations.* (a) An amateur station that has been moved from the authorized permanent location to another permanent location may be operated for a period not exceeding four consecutive months at the latter location, but in no event beyond the expiration of the license unless timely application for renewal thereof has been filed in accordance with the provisions of § 12.67 under the following conditions:

(1) Advance notice, in accordance with the provisions of § 12.91, shall be given to the Engineer in Charge of the radio district in which operation is intended; and

(2) Formal application for modification to change the permanent location shall be filed with the Commission within the above specified four month period.

(b) The licensee of an amateur station who changes residence temporarily, but retains a permanent residence associated with the fixed transmitter location designated in the station license, and moves his amateur station to a temporary location associated with his temporary residence, or the licensee-trustee for an amateur radio society which changes the normal location of its amateur station to a different and temporary location, may operate the station at such temporary location under the condition that: Notice, in accordance with the provisions of § 12.91, shall be given to the Commission in Washington 25, D. C., and to the Engineer in Charge of the radio district in which temporary operation is intended.

(c) When the station is operated under the provisions of this section, the portable identification procedures specified in § 12.32 shall be used.

[F. R. Doc. 57-7516; Filed, Sept. 12, 1957; 8:50 a. m.]

[47 CFR Part 16]

[Docket No. 12161; FCC 57-973]

LAND TRANSPORTATION RADIO SERVICES

PERMISSIBLE SCOPE OF COOPERATIVE USE OF FACILITIES

Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission proposes to amend § 16.3 (a) of Part 16, rules governing the Land Transportation Radio Services, so as to require specific prior approval from the Commission of any cooperative use of base station or mobile station radio facilities licensed under that part. The present rule requires the prior approval of the Commission when the proposed cooperative use comes within the provisions of § 16.3 (a) (1) but does not clearly require prior approval when the proposed use comes within § 16.3 (a) (2). From reports received by the Commission, it appears that this requirement is often misunderstood by licensees. The proposed amendment clarifies and extends the requirement to all cooperative use of base station or mobile station radio facilities licensed under Part 16. The cooperative use of fixed station radio facilities licensed under Part 16 will be considered only on a case by case basis pending further development of the Commission's microwave program.

3. Also, it is proposed to change the conditions under which licensees may engage in cooperative use of their base station or mobile station facilities. The present § 16.3 (a) requires that both parties proposing a cooperative use of base or mobile radio facilities operate transportation facilities in the same service. The proposed amendment would substitute therefor a provision that the same frequency must be assignable under Part 16 for use in connection with the transportation activity engaged in by each person proposing the cooperative use. This would permit persons operating any of the different types of transporta-

tion facilities to engage in cooperative use of their base or mobile radio facilities if the frequency proposed to be used was assignable under Part 16 to persons operating each type of transportation facility.

4. Coincident with the above, the Commission proposes to remove the requirement contained in § 16.3 (b) (2), that an audited financial statement reflecting the non-profit, cost-sharing nature of the cooperative arrangement be submitted annually to the Commission inasmuch as such annual statement does not appear to serve a useful purpose. However, the base station licensee will still be required to maintain such records and hold them available for inspection by Commission representatives.

5. In addition, it is proposed to amend § 16.251 (a) (5) of the rules governing the Motor Carrier Radio Service to provide for the eligibility in that service of non-profit corporations or associations organized for the purpose of furnishing a radiocommunication service on a cost-sharing basis to persons, all of whom are actually engaged in transportation activities for which provision is made in that service, provided that the frequency proposed to be used is assignable to persons engaging in all such transportation activities for base or mobile station use.

6. The foregoing amendments, which are set forth in detail below, are issued under authority of sections 4 (i) and 303 of the Communications Act of 1934, as amended.

7. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, and any person desiring to support this proposal, may file with the Commission on or before October 15, 1957, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments in reply to the original comments may be filed within 10 days from the last day for filing said original data, views, or arguments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

8. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: September 5, 1957.

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

1. Amend § 16.3 (a) to read as follows:

(a) Licensees shall not engage in any form of cooperative use of radio facilities licensed under this part except upon specific prior approval from the Commission with respect to every other person with whom such cooperative use is proposed. Such approval will not be granted by the Commission except in those cases where the frequencies proposed to be used are assignable under this part to base stations or mobile stations for use in connection with all the transportation activities involved. Cooperative use of point-to-point systems will be considered only on a case by case basis, pending further development of the Commission's microwave program. All cooperative arrangements will be governed by the following:

(1) Persons who are to receive mobile radiocommunication service from a base station licensed to another person may themselves be the licensees of the radio units to be installed in their respective vehicles: *Provided,* That prior to the mobile units receiving such service the person from whom the service is to be received shall obtain written authority to render such communications service, naming each person who is to receive service. When such communication service is to be rendered on a regular basis, the requests for such authority shall be made on an FCC Form 400, however, if the service is to be rendered on an irregular or temporary basis, the request may be in the manner provided for in § 16.53. Upon approval of the request, the Commission will designate the persons to whom service may be rendered, on the base station authorization or in the special temporary authority which shall be kept with the base station records.

(2) The licensee of a base station may install mobile units in vehicles of other persons, when the frequencies proposed to be used are assignable under this part for use in connection with all transportation activities involved: *Provided,* That in each case such persons shall enter into a written agreement verifying that the licensee has the sole right of control of the mobile radio units, that the vehicle operators shall operate the radio units subject to the orders and instructions of the base station operator and that the licensee shall at all times have such access to and control of the mobile equipment as will enable him to carry out his responsibilities under the license. A copy of the agreement with vehicle owners required hereby shall be kept with the station records and held available for inspection by the Commission representatives.

2. Amend § 16.3 (b) (2) to read as follows:

(2) Contributions to capital and operating expenses may be accepted only on a cost-sharing, non-profit basis, said costs to be prorated on an equitable basis among all persons who are parties to the cooperative arrangement. Records which reflect the cost of the service and its non-profit, cost-sharing nature shall be maintained by the base station licensee and held available for inspection by Commission representatives.

3. Amend § 16.251 (a) (5) to read as follows:

(5) A non-profit corporation or association organized for the purpose of furnishing a radiocommunication service on a cost-sharing basis to persons all of whom are actually engaged in activities set forth in the preceding subparagraphs of this paragraph: *Provided,* That the frequency on which such operation is proposed is available for assignment for use by base stations or mobile stations in connection with all such transportation activities.

[F. R. Doc. 57-7517; Filed, Sept. 12, 1957; 8:50 a. m.]

NOTICES

DEPARTMENT OF DEFENSE

Department of the Navy

ORGANIZATION STATEMENT

OFFICE OF THE JUDGE ADVOCATE GENERAL

In Organization Statement of the Department of the Navy, published at 16 F. R. 12573–12590, delete paragraph (a) of subsection H appearing at 16 F. R. 12585, as amended, 22 F. R. 3078, and insert the following paragraph in lieu thereof.

H. *Office of the Judge Advocate General.* (a) The Office of the Judge Advocate General, authorized by the act of June 8, 1880 (21 Stat. 164) as revised and reenacted (10 U. S. C. 5148), has cognizance of all major phases of military, administrative and applied law listed below as are incident to the operation of the Department of the Navy.

(1) In substance, the organization consists of a Judge Advocate General, a Deputy and Assistant Judge Advocate General, an Assistant Judge Advocate General (International and Administrative Law), an Assistant Judge Advocate General (Personnel, Reserve and Management), an Assistant Judge Advocate General (Military Justice), and fourteen principal divisions designated as International Law, Admiralty, Civil Law, Administrative Law, Litigation, Personnel Security, Military Personnel, Administrative Management, Naval Reserve and Legal Assistance, Appellate Defense, Military Justice, Investigations, Editorial and Research, and Bureau of Naval Personnel Discipline Liaison Divisions. Within the several divisions are branches and sections performing specific functions embraced by the mission of the parent division. In addition to the divisions of the Office, there are special assistants and the Boards of Review organized pursuant to article 66 of the Uniform Code of Military Justice (10 U. S. C. 866); two of the Boards are the

principal part of the Office of the Judge Advocate General of the Navy, West Coast, located at San Bruno, California.

(2) The position of the Deputy and Assistant Judge Advocate General is to be occupied by the officer serving in the statutory position of Assistant Judge Advocate General (10 U. S. C. 5149). He shall perform such duties as the Judge Advocate General may prescribe. When there is a vacancy in the office of Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy and Assistant Judge Advocate General, unless otherwise directed by the President, shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases. The Assistant Judge Advocate General (International and Administrative Law), the Assistant Judge Advocate General (Personnel, Reserve and Management) and the Assistant Judge Advocate General (Military Justice) shall function within the fields of responsibility specified; shall perform such duties as may be prescribed by the Judge Advocate General; and shall be responsible to the Deputy and Assistant Judge Advocate General and the Judge Advocate General. When there is a vacancy in the office of Judge Advocate General, or during the absence or disability of the Judge Advocate General, and during the absence or disability of the Deputy and Assistant Judge Advocate General, the Assistant Judge Advocate General senior in military rank and available for such duty shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

By direction of the Secretary of the Navy:

[SEAL] CHESTER WARD,
Rear Admiral, U. S. Navy,
Judge Advocate General of the Navy.

SEPTEMBER 6, 1957.

[F. R. Doc. 57-7496; Filed, Sept. 12, 1957; 8:46 a. m.]

DEPARTMENT OF STATE

[Public Notice 152]

[Delegation of Authority No. 85-2]

INTERNATIONAL COOPERATION ADMINISTRATION

FURTHER DELEGATION OF AUTHORITY

By virtue of the authority vested in me by section 4 of the act of May 26, 1949 (63 Stat. 111, 5 U. S. C. 151c), section 3 (a) of Delegation of Authority No. 85, as amended, is hereby further amended by the addition of the following subsection:

(5) The functions which the Department of State is directed to carry out by section 4 (d) (3) of Executive Order 10560, as amended, relating to foreign currencies generated by sales under the Agricultural Trade Development and Assistance Act of 1954, as amended, to carry out the purposes of section 104 (c) of the act.

JOHN FOSTER DULLES,
Secretary of State.

SEPTEMBER 4, 1957.

[F. R. Doc. 57-7504; Filed, Sept. 12, 1957; 8:48 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 54430]

[Customs Delegation Order 12]

TRANSFER FROM APPRAISERS OF MERCHANDISE TO COLLECTORS OF CUSTOMS OF CERTAIN FUNCTIONS

By virtue of authority vested in me by Treasury Department Order No. 165, Revised (T. D. 53654, 19 F. R. 7241), I hereby transfer from the appraisers of merchandise to the collectors of customs the function of determining the appraised value under section 402 of the Tariff Act of 1930, as amended (19 U. S. C. 1402), and the actual domestic value in its condition at the time and place of examination, of any unclaimed merchandise abandoned to the Government, where the aggregate appraised value of the lot as determined by the collector is not in excess of $250.

[SEAL] RALPH KELLY,
Commissioner of Customs.

SEPTEMBER 6, 1957.

[F. R. Doc. 57-7505; Filed, Sept. 12, 1957; 8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[The Dalles 028653]

OREGON

REVOKING RECREATIONAL WITHDRAWAL NO. 57

SEPTEMBER 10, 1957.

By virtue of the authority vested in the Secretary of the Interior by the act of June 14, 1926 (44 Stat. 741), and pursuant to Section 2.22 of Order No. 2583 of the Secretary of the Interior, dated August 16, 1950, it is ordered as follows:

1. The Departmental order of March 12, 1934, which withdrew the following-described lands for recreational purposes, is hereby revoked:

WILLAMETTE MERIDIAN

T. 13 S., R. 31 E.,
Sec. 26, SE¼SE¼.

The area described contains 40 acres.

2. The land is hilly and mountainous. It is the east hillside of a steep canyon on the bed of which are located the towns of Canyon City and John Day. Precipitation is approximately 11 inches per annum, most of which falls in the nongrowing period. Soils are shallow clay loam with much surface rock. Vegetation consists of a sagebrush-juniper type association.

3. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on October 16, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on January 15, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on January 15, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

5. The lands will be open to applications and offers under the mineral-leasing laws, and to location under the United States mining laws beginning at 10:00 a. m. on January 15, 1958. Applications and offers under the mineral leasing laws filed on or before that date will be considered as simultaneously filed at that time. Applications filed after that date will be considered in the order of filing.

6. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable

claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oregon.

E. J. THOMAS,
Acting Director.

[F. R. Doc. 57-7540; Filed, Sept. 12, 1957; 8:55 a. m.]

CALIFORNIA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

SEPTEMBER 6, 1957.

The United States Department of Agriculture, Forest Service, has filed an application, Serial No. Sacramento 048402, for the withdrawal of the lands described below, from location and entry under the general mining laws, subject to existing valid claims.

The applicant desires the land for use as a Feather River Experimental Station within the Plumas National Forest for long range experimental forest purposes.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, California Fruit Building, 8th Floor, 4th and J Streets, Sacramento 14, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 23 N., R. 10 E.,
Sec. 4, lots 3, 4, SW¼;
Sec. 5, lots 1, 2, 3, 4, S½N½;
Sec. 6, lots 1, 2, S½NE¼;
Sec. 9, NW¼.
T. 24 N., R. 10 E.,
Sec. 31, SE¼NE¼, SE¼;
Sec. 32, NE¼NE¼, S½NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 33, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 34, NW¼NE¼NW¼, NW¼NW¼, NW¼SW¼NW¼.

The area described totals approximately 879.96 acres in Plumas National Forest.

R. R. BEST,
State Supervisor.

[F. R. Doc. 57-7493; Filed, Sept. 12, 1957; 8:45 a. m.]

CALIFORNIA

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

SEPTEMBER 6, 1957.

In exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended, and pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management, Part II, Document 4, California State Office dated November 19, 1954 (19 F. R. 7697), the following described lands have been reconveyed to the United States under application numbers indicated:

MOUNT DIABLO MERIDIAN, CALIFORNIA

Sacramento 035125

T. 30 N., R. 13 E.,
Sec. 33, E½NW¼, NE¼SW¼.

Sacramento 036859

T. 9 N., R. 21 E.,
Sec. 24, N½NW¼.

Sacramento 036934

T. 9 N., R. 22 E.,
Sec. 5, lots 3, 4, S½NW¼, N½SW¼, W½SE¼, SE¼SE¼;
Sec. 6, SE¼NE¼, NE¼SE¼;
Sec. 8, NE¼NE¼, S½NW¼, NW¼SW¼;
Sec. 10, NW¼SE¼;
Sec. 30, NW¼NE¼.

Sacramento 036733

T. 31 N., R. 1 W.,
Sec. 10, NW¼NE¼, N½NW¼.

Sacramento 048100

T. 32 N., R. 8 W.,
Sec. 34, SW¼NE¼, W½NW¼, SE¼NW¼.

The area described totals 1,161.56 acres.

1. The lands are widely scattered throughout Northern California and generally occupy foothill and mountainous regions with climate and precipitation which vary according to elevation and locality. Accessibility is fair to poor as a rule. Adverse topography renders the lands generally unsuited to agricultural purposes other than grazing by livestock.

The lands in T. 30 N., R. 13 E., M. D. M., are part of organized Grazing District California No. 2; and those in T. 9 N., R. 21 E., and T. 9 N., R. 22 E., M. D. M., part of organized Grazing District Nevada No. 3.

The lands in T. 31 N., R. 1 W., and T. 32 N., R. 8 W., M. D. M., are part of the District Forestry Office, Redding. The exchange under Sacramento 048100 was made in furtherance of the Bureau timber program and is in the timber management unit.

2. No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

3. Subject to any existing valid rights and the requirements of applicable law, the lands described are hereby opened to filing of applications, selections and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m., local time, on October 12, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m., local time, on January 11, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a. m., local time, on January 11, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States Mining Laws, beginning 10:00 a. m., local time, on January 11, 1958, except as to Sacramento 036733 which has been open to mining at all times.

4. Persons claiming veteran's preference rights under Paragraph a (2) above, must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

5. Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, 10th Floor, California Fruit Building, 4th and J Streets, Sacramento 14, California.

JEAN M. F. DUBOIS,
Acting Officer in Charge, Northern Field Group, Sacramento, California.

[F. R. Doc. 57-7494; Filed, Sept. 12, 1957; 8:46 a. m.]

Office of the Secretary

[Order No. 2824]

DIRECTOR, NATIONAL PARK SERVICE

DELEGATION OF AUTHORITY TO NEGOTIATE FOR SERVICES OF ENGINEERING, ARCHITECTURAL, AND LANDSCAPE ARCHITECTURAL FIRMS

SEPTEMBER 6, 1957.

SECTION 1. *Delegation of authority.* (a) The Director, National Park Service, is authorized to exercise, subject to the provisions of paragraph (b) of this section, the authority delegated by the Administrator of General Services (22 F. R. 6808) to the Secretary of the Interior, for the period ending June 30, 1958, to negotiate, without advertising, under section 302 (c) (4) of the Federal Property and Administrative Services Act of 1949, as amended (41 U. S. C., 252 et seq.), contracts for the services of engineering, architectural, and landscape architectural firms required by the National Park Service in its construction programs.

(b) The authority granted in paragraph (a) of this section shall be exercised in accordance with all provisions of Title II of the act with respect to negotiated contracts, and all other provisions of law.

SECTION 2. *Redelegation.* The Director, National Park Service, may, in writing, redelegate or authorize written redelegation of the authority granted in section 1 of this order. Each such redelegation shall be published in the FEDERAL REGISTER.

HATFIELD CHILSON,
Acting Secretary of the Interior.

[F. R. Doc. 57-7541; Filed, Sept. 12, 1957; 8:55 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

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. 414 (16 F. R. 7367), 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 522.24, as amended).

The following learner certificates were issued authorizing the employment of ten percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Aero-Fab Corp., Olive Hill, Ky.; effective 8-29-57 to 11-20-57 (Replacement Certificate) (trousers).

Carolina Underwear Co., 110 West Guilford Street, Thomasville, N. C.; effective 9-10-57 to 9-9-58 (children's and ladies' panties).

W. R. Darling & Son, 251 West Bencamp Avenue, San Gabriel, Calif.; effective 8-29-57 to 8-28-58. Learners may not be employed at special minimum wage rates in the production of separate skirts (women's sportswear).

Detroit Slacks, Inc., Detroit, Ala.; effective 9-1-57 to 8-31-58 (boys' and men's play slacks).

The Jerold Corp., Highway 301 South, Smithfield, N. C., effective 9-15-57 to 9-14-58 (women's and children's cotton sports jackets).

Mary Kirk, Inc., Eagle Building, Shamokin, Pa.; effective 8-30-57 to 8-29-58 (cotton wash dresses).

Renee of Hollywood, 2304 South Main Street, Los Angeles, Calif.; effective 8-30-57 to 8-29-58 (women's brassieres).

Renee of Hollywood, 743 Santee Street, Los Angeles, Calif.; effective 8-30-57 to 8-29-58 (women's brassieres).

Royal Manufacturing Co., Inc., Sandersville, Ga.; effective 8-30-57 to 8-29-58 (men's and boys' sport shirts).

Shreveport Garment Manufacturers, 908 McNeil Street, Shreveport, La.; effective 9-2-57 to 9-1-58 (cotton work pants).

Sylvan Manufacturing Co., Inc., 240 Penn Avenue, Scranton, Pa.; effective 8-29-57 to 8-28-58. Learners may not be employed at special minimum wage rates in the production of separate skirts and jumpers (children's sportswear).

Vernon Manufacturing Co., Inc., Vernon, Ala.; effective 9-1-57 to 8-31-58 (men's dress pants).

Weiss Shirt Co., Inc., 520 Lehman Street, Lebanon, Pa.; effective 9-7-57 to 9-6-58 (ladies' cotton shirts).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Ann Lee Frocks (Lyndwood) 631 Fellows Avenue, Wilkes-Barre, Pa.; effective 9-15-57 to 9-14-58; 10 learners (dresses).

The Dantan Co., Inc., Rankin Street, Dumas, Ark., effective 9-1-57 to 8-31-58; 10 learners. Learners may not be engaged at special minimum wage rates in the production of separate skirts (ladies' sportswear—pedal pushers, shorts).

Fay Sportwear Co., East Union and Tatham Streets, Burlington, N. J.; effective 8-30-57 to 8-29-58; four learners (ladies' and children's sportswear and dresses).

Hamlet Products Co., 323 East Hamlet Avenue, Hamlet, N. C.; effective 8-29-57 to 8-28-58; five learners (ladies' lingerie).

Mode O'Day Corp., 607 Main Street, Osawatomie, Kans.; effective 8-27-57 to 8-26-58; 10 learners (ladies' blouses).

Mohawk Dress, Inc., 29 Chuctanunda Street, Amsterdam, N. Y.; effective 8-28-57 to 8-27-58; 10 learners (ladies' dresses).

Murlaw Manufacturing Corp., 152 West Ridge Street, Lansford, Pa.; effective 8-27-57 to 8-26-58; five learners (children's dresses).

Murray Perlman Dress Co., Tannersville, N. Y.; effective 8-28-57 to 8-27-58; four learners (ladies' dresses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Glenn Slacks, Inc., Bruce, Miss.; effective 8-30-57 to 2-28-58; 100 learners (boys' dress pants and men's semi-dress pants).

Holiday Togs, Inc., Dayton, Tenn.; effective 8-28-57 to 2-27-58; 28 learners (children's outerwear).

Shelby Textiles, Inc., 706 Julius Street, Shelby, N. C.; effective 8-29-57 to 2-28-58; 10 learners (ladies' and children's underwear).

Triple A. Trouser Manufacturing Co., Inc., 1431 Capouse Avenue, Scranton, Pa.; effective 8-28-57 to 2-27-58; 10 learners (trousers).

Cigar Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.80 to 522.85, as amended).

Continental Cigar Co., Rocky Glen Road, Moosic, Pa.; effective 8-30-57 to 2-28-58; authorizing the employment of 10 learners for plant expansion purposes in the occupations of: (1) cigar machine operating and packing cigars (retailing for more than 6 cents), each for a learning period of 320 hours at the rate of 80 cents an hour; and (2) hand stripping, machine stripping, and packing cigars (retailing for 6 cents or less), each for a learning period of 160 hours at the rate of 80 cents an hour (Toscano style cigar).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.65, as amended).

Joseph A. Milstein Co., Inc., 64 Trinity Place, Albany, N. Y.; effective 8-29-57 to 8-28-58; 10 learners for normal labor turnover purposes (knit gloves).

Wells Lamont Corp., Waynesboro, Miss.; effective 9-5-57 to 9-4-58; 10 percent of the total number of factory production workers engaged in the authorized learner occupations 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).

Burlington Industries, Inc., Franklin Hosiery Co., Franklin, N. C.; effective 9-1-57 to 2-28-58; 90 learners for plant expansion purposes (seamless).

DeKalb Hosiery Mills, Inc., 802 North Gault Avenue, Fort Payne, Ala.; effective 8-30-57 to 8-29-58; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Ellen Knitting Mills, Inc., Spruce Pine, N. C.; effective 9-1-57 to 2-28-58; 10 learners for plant expansion purposes (seamless).

Ellen Knitting Mills, Inc., Spruce Pine, N. C.; effective 9-1-57 to 8-31-58; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Rabbit Hollow Knitting Co., Northfield, Vt.; effective 8-29-57 to 8-28-58; five learners for normal labor turnover purposes (seamless).

Walridge Hosiery Mills, Inc., Highway No. 20, Marvell, Ark.; effective 8-29-57 to 8-28-58; 5 learners 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).

Carolina Underwear Co., 110 West Guilford Street, Thomasville, N. C.; effective 9-10-57 to 9-9-58; 5 percent of the total number of factory production workers engaged in the production of children's and ladies' knitted panties, men's and boys' shorts and ladies' pajamas for normal labor turnover purposes (boys' and men's shorts).

Fine Guage Knitwear, Ashtabula, Ohio; effective 8-27-57 to 8-26-58; five learners for normal labor turnover purposes (sweaters).

Ladd Knitting Mills, Inc. North Sixth Street and Hiester's Lane, Reading, Pa.; effective 8–26–57 to 2–25–58; 25 learners for plant expansion purposes (sweaters).

Ladd Knitting Mills, Inc. North Sixth Street and Hiester's Lane, Reading, Pa.; effective 8–26–57 to 8–25–58; 5 percent of the total number of factory production workers for normal labor turnover purposes (sweaters).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Crown Footwear Manufacturing Co., Inc., New Athens, Ill.; effective 8–28–57 to 8–27–58; 10 learners for normal labor turnover purposes.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Carroll Manufacturing Co., Westminster, Md.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's sack coats and pants).

Crisfield Manufacturing Co., Crisfield, Md.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's pants and slacks).

Friedman-Marks Clothing Co., Inc., 1400 West Marshall Street, Richmond, Va.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's suits, sportcoats and pants).

Glen L. Evans, Inc., 306 Paynter Avenue, Caldwell, Idaho; effective 9–3–57 to 3–2–58; authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes in the occupation of fly and bug tier for a learning period of 480 hours at the rates of 80 cents an hour for the first 240 hours and 85 cents an hour for the remaining 240 hours (artificial flies, artificial bugs).

Grant County Manufacturing Co., Williamstown, Ky.; effective 9–1–57 to 2–28–58; authorizing the employment of 10 learners for normal labor turnover purposes in the occupation of hand sewers for a learning period of 480 hours at the rates of 80 cents an hour for the first 320 hours and 85 cents an hour for the remaining 160 hours (baseballs and softballs).

Hart Schaffner and Marx, 728 West Jackson Boulevard, Chicago, Ill.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes in the production of men's and boys' clothing only, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's suits, topcoats, sportcoats).

Lion Manufacturing Co., Everett, Pa.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's sack coats).

Middleburg Manufacturing Co., Hanover, Pa.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's pants, slacks, and vests).

Mount Union Manufacturing Co., Mount Union, Pa.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's sack coats).

Rachman Manufacturing Co., 1135 Moss Street, Reading, Pa.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupation of sewing machine operator for a learning period of 320 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 40 hours (U. S. Government uniforms).

The Raleigh Manufacturers, Inc., 414 Light Street, Baltimore, Md.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 320 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 40 hours (men's suits).

The Raleigh Manufacturers, Inc., 519 West Pratt Street, Baltimore, Md.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator and final presser, each for a learning period of 320 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 40 hours (men's suits, coats, and pants).

State Coat Front Co., 90 Wareham Street, Boston, Mass.; effective 9–1–57 to 2–28–58; authorizing the employment of 3 learners for normal labor turnover purposes in the occupation of sewing machine operator for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (canvas coat fronts).

Stewartstown Manufacturing Co., Stewartstown, Pa.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, hand sewer, final presser, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's sack and topcoats).

Staunton Manufacturing Co., Staunton, Va.; effective 9–1–57 to 2–28–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's sack coats).

Each learner certificate has been issued upon the employer's representation that employment of learners at subminimum 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 annuled 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.

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.), and Part 527 of the Regulations issued thereunder (29 CFR Part 527) special certificates authorizing the employment of student-workers at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. Effective and expiration dates, occupations, wage rates, number or porportion of student-workers as learners, and learning periods for certificates issued under Part 527 are as indicated below.

Regulations Applicable to the Employment of Student-Workers (29 CFR 527.1 to 527.9).

Adelphian Academy, 820 Academy Rd., Holly, Mich.; effective 9–1–57 to 8–31–58; authorizing the employment of 80 student-workers in the woodworking shop industry, in the occupations of woodworking machines operator, assembler and related skilled and semi-skilled occupations including incidental clerical work in the shop, each for a learning period of 240 hours at the rates of 80 cents an hour for the first 120 hours and 85 cents an hour for the remaining 120 hours.

Auburn Academy, Auburn, Wash.; effective 9–1–57 to 8–31–58; authorizing the employment of 70 student-workers in the woodworking shop (furniture) industry, in the occupations of woodworking machine operator, assembler, furniture finisher, and related skilled and semi-skilled occupations, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

Campbellsville College, Campbellsville, Ky.; effective 9–1–57 to 8–31–58; authorizing the employment of 15 student-workers for: (1) a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours in the furniture and handiwork "do-it-yourself" kits industry, in the occupations of woodworking machine operator, veneer machines operator including glue reel, assembler, furniture finisher and related skilled and semi-skilled occupations;

and (2) a learning period of 850 hours at the rates of 80 cents an hour for the first 425 hours and 85 cents an hour for the remaining 425 hours in the metalworking industry, in the occupations of machine tools operator: lathe, milling, planer shaper, drill press, die casting and related semi-skilled and skilled occupations.

Cedar Lake Academy, Cedar Lake, Mich.; effective 9–1–57 to 8–31–58; authorizing the employment of 36 student-workers in the woodworking (Redwood lawn furniture) industry, in the occupations of woodworking machines operator, assembler, and related skilled and semi-skilled occupations including incidental clerical work in shop, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

Clear Creek Mountain, Preachers Bible School, Pineville, Ky.; effective 9–1–57 to 8–31–58; authorizing the employment of 45 student-workers in the furniture manufacturing industry, in the occupations of woodworking machine operator, assembler, furniture finisher, and related skilled and semi-skilled occupations, including incidental clerical work in furniture shop, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

Emmanuel Missionary College, Berrien Springs, Mich.; effective 9–1–57 to 8–31–58; authorizing the employment of: (1) 40 student-workers in the bookbindery industry, in the occupations of bookbinder, bindery worker and related skilled and semi-skilled occupations, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours; (2) 12 student-workers in the print shop industry, in the occupations of pressman, compositor, and related skilled and semi-skilled occupations, each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours; (3) 90 student-workers in the furniture industry, in the occupations of woodworking machine operator, assembler, finisher, and related skilled and semi-skilled occupations, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours; and (4) 5 student-workers in the clerical industry, in the occupations of bookkeeper, typist and related skilled and semi-skilled occupations, each for a learning period of 480 hours at the rates of 80 cents an hour for the first 240 hours and 85 cents an hour for the remaining 240 hours.

Enterprise Academy, Enterprise, Kans.; effective 9–1–57 to 8–31–58; authorizing the employment of 9 student-workers in the print shop industry, in the occupations of compositor, pressman, linotype operator, and related skilled and semi-skilled occupations, each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours.

Forest Lake Academy, Maitland, Fla.; effective 9–1–57 to 8–31–58; authorizing the employment of 20 student-workers in the printing industry, in the occupations of compositor, pressman, bindery worker and related skilled and semi-skilled occupations including incidental clerical work in the shop, each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours.

Glendale Union Academy, 700 Kimlin Drive, Glendale, Calif.; effective 9–1–57 to 8–31–58; authorizing the employment of 4 student-workers in the printing industry, in the occupations of compositor, pressman, and related skilled and semi-skilled occupations, each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours.

La Sierra College, Arlington, Calif.; effective 9–1–57 to 8–31–58; authorizing the employment of 5 student-workers in the print shop industry, in the occupations of pressman, compositor, linotype operator, bindery worker, and related skilled and semi-skilled occupations, each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours.

Laurelwood Academy (Laurelcraft Industries), Gaston, Oreg.; effective 9–1–57 to 8–31–58; authorizing the employment of 60 student-workers in the woodworking (folding doors) industry, in the occupations of woodworking machines operator, assembler, finisher, and related skilled and semi-skilled occupations, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

Lodi Academy, 1215 South Garfield Street, Lodi, Calif.; effective 9–1–57 to 8–31–58; authorizing the employment of 6 student-workers in the printing industry, in the occupations of compositor, pressman, linotype operator, bindery worker, and related skilled and semi-skilled occupations, each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours.

Maplewood Academy, Hutchinson, Minn.; effective 9–1–57 to 8–31–58; authorizing the employment of 35 student-workers in the bookbindery industry, in the occupations of bookbinder, bindery worker, and related skilled and semi-skilled occupations; and 30 student-workers in the woodworking (furniture) industry, in the occupations of woodworking machines operator, assembler, finisher, and related skilled and semi-skilled occupations. A learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours is authorized for each of these occupations. Six student-workers are authorized in the clerical industry, in the occupations of typist, bookkeeper, and related skilled and semi-skilled occupations, each for a learning period of 480 hours at the rates of 80 cents an hour for the first 240 hours and 85 cents an hour for the remaining 240 hours.

Monterey Bay Academy, Watsonville, Calif.; effective 9–1–57 to 8–31–58; authorizing the employment of 18 student-workers in the trellis manufacturing industry, in the occupations of millman, woodworking machine operator, assembler, and related skilled and semi-skilled occupations including incidental clerical work in shop, each for a learning period of 240 hours at the rates of 80 cents an hour for the first 120 hours and 85 cents an hour for the remaining 120 hours.

Newbury Park Academy, Newbury Park, Calif., effective 9–1–57 to 8–21–58; authorizing the employment of 35 student-workers in the broom industry, in the occupations of broom maker, sorter, winder, stitcher, and related skilled and semi-skilled occupations, each for a learning period of 360 hours at the rates of 80 cents an hour for the first 180 hours and 85 cents an hour for the remaining 180 hours.

Ozark Academy, Gentry, Ark.; effective 9–1–57 to 8–31–58; authorizing the employment of: (1) 30 student-workers in the furniture manufacturing industry, in the occupations of woodworking machines operator, assembler, furniture finisher, and related skilled and semi-skilled occupations including incidental clerical work in the shop, each for a 600-hour learning period; (2) 10 student-workers in the venetian blind manufacturing industry, in the occupations of rail cutter, machine operator, spray painter, slat, cord and tape cutter and assembler, and related skilled and semi-skilled occupations, each for a 400-hour learning period; and (3) 20 student-workers in the broom shop industry, in the occupations of broom maker, stitcher, and related skilled and semi-skilled occupations, each for a 360-hour learning period. All occupations shall be paid for at the rates of 80 cents an hour for the first half and 85 cents an hour for the remaining half of their respective authorized learning periods.

Pacific Union College, Angwin, Calif.; effective 9–1–57 to 8–31–58; authorizing the employment of: (1) 8 student-workers in the print shop industry, in the occupations of compositor, pressman, lithographer, bindery worker, and related skilled and semi-skilled occupations including incidental clerical work in the shop, each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours; and (2) 20 student-workers in the bookbindery industry, in the occupations of bookbinder, sewer, stamper, trimmer, cutter, backer, casemaker, and related skilled and semi-skilled occupations including incidental clerical work in the shop, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

Plainview Academy, Redfield, S. Dak.; effective 9–1–57 to 8–31–58; authorizing the employment of 15 student-workers in the broom shop industry, in the occupations of broom maker, stitcher, and related skilled and semi-skilled occupations, each for a learning period of 360 hours at the rates of 80 cents an hour for the first 180 hours and 85 cents an hour for the remaining 180 hours.

Shenandoah Valley Academy, New Market, Va.; effective 9–1–57 to 8–31–58; authorizing the employment of 15 student-workers in the bookbindery industry, in the occupations of bookbinder, bindery worker, sewer, trimmer, backer, cutter, case-maker, letterer, and related skilled and semi-skilled occupations including incidental clerical work in the shop, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

Southern Missionary College, Collegedale, Tenn.; effective 9–1–57 to 8–31–58; authorizing the employment of: (1) 45 student-workers in the print shop industry, in the occupations of compositor, pressman, book binder, and related skilled and semi-skilled occupations including incidental clerical work in the shop, each for a learning period of 1000 hours; (2) 60 student-workers in the broom shop industry, in the occupations of broom maker, stitcher, winder, sorter, and related skilled and semi-skilled occupations, each for a learning period of 360 hours; and (3) 25 student-workers in the clerical industry, in the occupations of typist, stenographer, and related skilled and semi-skilled occupations, each for a learning period of 480 hours. All occupations shall be paid for at the rates of 80 cents an hour for the first half and 85 cents an hour for the second half of their respective authorized learning periods.

Southwestern Junior College, Keene, Tex.; effective 9–1–57 to 8–31–58; authorizing the employment of: (1) 12 student-workers in the print shop industry, in the occupations of compositor, pressman, bindery worker, and related skilled and semi-skilled occupations, each for a learning period of 1000 hours at the rates of 80 cents and hour for the first 500 hours and 85 cents an hour for the remaining 500 hours; and (2) 3 student-workers in the clerical industry, in the occupations of typist, file clerk, bookkeeper, stenographer, timekeeper, and related skilled and semi-skilled occupations, each for a learning period of 480 hours at the rates of 80 cents an hour for the first 240 hours and 85 cents an hour for the remaining 240 hours.

Sunnydale Academy, Centralia, Mo.; effective 9–1–57 to 8–31–58; authorizing the employment of 18 student-workers in the food manufacturing industry, in food manufac-

turing semi-skilled occupations only, for a learning period of 300 hours at the rates of 80 cents an hour for the first 150 hours and 85 cents an hour for the remaining 150 hours.

Thunderbird Academy (Academy Wood Products), Scottsdale, Ariz.; effective 9–1–57 to 8–31–58; authorizing the employment of 60 student-workers in the woodworking shop (furniture) industry, in the occupations of woodworking machine operator, assembler, furniture finisher helper, and related skilled and semi-skilled occupations including incidental clerical work in shop, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents and hour for the remaining 300 hours.

Union College, Lincoln, Nebr.; effective 9–1–57 to 8–31–58; authorizing the employment of: (1) 6 student-workers in the print shop industry, in the occupations of compositor, pressman, and related skilled and semi-skilled occupations, each for a learning period of 1000 hours; (2) 12 student-workers in the bookbindery industry, in the occupations of bookbinder, bindery worker, and related skilled and semi-skilled occupations, each for a 600-hour learning period; (3) 6 student-workers in the broom industry, in the occupations of broom maker, stitcher, and related skilled and semi-skilled occupations, each for a 360-hour learning period; (4) 35 student-workers in the furniture industry, in the occupations of woodworking machines operator, assembler, finisher, and related skilled and semi-skilled occupations, each for a learning period of 600 hours; and (5) 6 student-workers in the clerical industry, in the occupations of bookkeeper, business machines operator, and related skilled and semi-skilled occupations, each for a learning period of 480 hours. All occupations shall be paid for at the rates of 80 cents an hour for the first half and 85 cents an hour for the remaining half of the respective authorized learning periods.

Upper Columbia Academy, Spangle, Wash.; effective 9–1–57 to 8–31–58; authorizing the employment of 30 student-workers in the furniture shop (upholstered) industry, in the occupations of woodworking machines operator, springer, sewer, upholsterer, assembler, furniture finisher, and related skilled and semi-skilled occupations, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

Walla Walla College, Drawer 1, College Place, Wash.; effective 9–1–57 to 8–31–58; authorizing the employement of: (1) 10 student-workers in the printing industry, in the occupations of compositor, pressman, bindery worker, and related skilled and semi-skilled occupations each for a learning period of 1,000 hours at the rates of 80 cents an hour for the first 500 hours and 85 cents an hour for the remaining 500 hours; and (2) 25 student-workers in the bookbindery industry, in the occupations of bookbinder, bindery worker, and related skilled and semi-skilled occupations, each for a learning period of 600 hours at the rates of 80 cents an hour for the first 300 hours and 85 cents an hour for the remaining 300 hours.

These student-worker certificates were issued upon the applicant's representations and supporting material fulfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Signed at Washington, D. C., this 6th day of September 1957.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 57–7495; Filed, Sept. 12, 1957; 8:46 a. m.]

ATOMIC ENERGY COMMISSION

[Docket 50–64]

UNIVERSITY OF AKRON

NOTICE OF ISSUANCE OF FACILITY LICENSE

Please take notice that no request for a formal hearing having been filed following the publication of notice of the proposed action in the FEDERAL REGISTER on August 10, 1957, 22 F. R. 6437, the Atomic Energy Commission has issued License R–24 authorizing the University of Akron to acquire, possess and operate, at the location in Akron, Ohio, described in the application in Docket 50–64, a 100-milliwatt nuclear reactor constructed by Aerojet-General Nucleonics and designated by AGN as Model AGN–201, Serial No. 104.

The license as issued covers Model AGN–201, Serial No. 104 rather than Serial No. 108 as indicated in the notice of proposed issuance. The two reactors are identical. Serial No. 104 is presently being used at Argonne National Laboratory.

Dated at Washington, D. C. this 5th day of September 1957.

For the Atomic Energy Commission.

FRANK K. PITTMAN,
Acting Director,
Division of Civilian Application.

[F. R. Doc. 57–7490; Filed, Sept. 12, 1957; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 6093 et al.]

INTRA-ALASKA CASE

NOTICE OF REASSIGNMENT OF ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that the oral argument in the above-entitled proceeding now assigned to be held on September 25 is reassigned for September 24, 1957, 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between 14th and 15th Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., September 10, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57–7546; Filed, Sept. 12, 1957; 8:56 a. m.]

[Docket No. 8456]

CAPITAL GROUP STUDENT FARES

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that a prehearing conference in the above-entitled proceeding is assigned to be held on September 25, 1957, at 10:00 a. m., e. d. s. t., in Room E–210, Temporary Building No. 5, Seventeenth Street and Constitution Avenue, NW., Washington, D. C., before Examiner William J. Madden.

In the Board's decision of July 31, 1957, the Board concluded that if Capital were to refile a group tariff within 15 days after service of this opinion, the record would be remanded to the Examiner for further hearing and other appropriate procedures. Capital refiled its group fare tariff to which objection was made by Delta and American. On September 5, 1957, the Board suspended the group fares in Docket No. 8991 and consolidated that docket into Docket No. 8456.

Examiner Ruhlen who conducted the hearing in the Capital Group Student Fares Case is not available because of other assignments and the case is, therefore, being remanded to Examiner Madden for further procedural action.

Dated at Washington, D. C., September 10, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57–7547; Filed, Sept. 12, 1957; 8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11588 etc.; FCC 57M–825]

JOSEPH M. RIPLEY, INC., ET AL.

ORDER CONTINUING HEARING CONFERENCE

In re applications of Joseph M. Ripley, Inc., Jacksonville, Florida, Docket No. 11588, File No. BP–9788; Robert Hecksher, Jacksonville, Florida, Docket No. 11777, File No. BP–10255; Dan Richardson, Orange Park, Florida, Docket No. 11999, File No. BP–10697; for construction permits.

The Hearing Examiner having under consideration an informal request from counsel for Robert Hecksher, an applicant herein, that the pre-hearing conference presently scheduled for September 10, 1957, be continued to September 17, 1957;

It appearing that counsel for all parties to the proceeding have concurred therein;

It is ordered, This 6th day of September 1957, that the pre-hearing conference, which is presently scheduled herein for September 10, 1957, be, and the same is hereby, continued to September 17, 1957, at 10:00 o'clock a. m., in the offices of the Commission, Washington, D. C.

Released: September 9, 1957.

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

[F. R. Doc. 57–7518; Filed, Sept. 12, 1957; 8:51 a. m.]

[Docket No. 11973 etc.; FCC 57–951]

PALM SPRINGS TRANSLATOR STATION, INC.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Palm Springs Translator Station, Inc., Palm Springs, California, Docket No. 11973, File No. BPTT–12; Docket No. 11974, File No. BPTT–13; for construction permits for new television broadcast translator stations; Palm Springs Translator Station, Inc., Palm Springs, California, Docket

No. 12149, File No. BMPTT–5; Docket No. 12150, File No. BMPTT–6; for modification of construction permits to increase effective radiated power and to make changes in antenna system; Palm Springs Translator Station, Inc., Palm Springs, California, Docket No. 12151, File No. BLTT–11; Docket No. 12152, File No. BLTT–12; for television broadcast translator station licenses to cover translator stations K–70–AL and K–73–AD, Palm Springs, California.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 5th day of September 1957;

The Commission having under consideration the above-captioned applications requesting (1) authority to modify construction permits to increase Effective Radiated Power and to make changes in antenna system, and (2) licenses to cover television broadcast translator stations K–70–AL and K–73–AD, Palm Springs, California; and a letter filed by Palm Springs Community Television Corporation on April 19, 1957, requesting the Commission to order the permittee to cease operating its stations and designate for hearing the applications for modification of construction permits; and

It appearing that by Memorandum Opinion and Order dated April 3, 1957, the Commission, upon protest by Palm Springs Community Television Corporation, ordered that the above-captioned applications for construction permits be designated for hearing on certain specified issues; that Palm Springs Community Television Corporation (owner and operator of a community antenna system serving Palm Springs, California) was made a party to the hearing with respect to all the matters placed in issue; that the hearing in this matter has been continued without date; and

It further appearing that pursuant to the provisions of section 309 (b) of the Communications Act of 1934, as amended, Palm Springs Translator Station, Inc. was advised by letter dated June 6, 1957, of all objections to the above-captioned applications for modification of construction permits and for licenses to cover its translator stations, that the Commission was unable to determine that a grant of said applications would be in the public interest, and was afforded an opportunity to reply; and

It further appearing that upon due consideration of the above-captioned applications for modification and license, the Commission's letter of June 6, 1957, the applicant's reply thereto of June 24, 1957, and the letter from Palm Springs Community Television Corporation, the Commission is unable to find that a grant of the applications would be in the public interest and concludes that a hearing is necessary; and

It further appearing that consolidation of the hearing upon the above-captioned applications for modification and license with the pending protest hearing in the above-captioned Dockets Numbers 11973 and 11974 would best conduce to the proper dispatch of the Commission's business and to the ends of justice;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, said applications of Palm Springs Translator Station, Inc., for modification of construction permits (BMPTT–5, BMPTT–6) and for licenses to cover its translator stations (BLTT–11, BLTT–12) are designated for hearing in a consolidated proceeding with the applications of Palm Springs Translator Station, Inc. (Dockets Numbers 11973, 11974, File Numbers BPTT–12, BPTT–13) at a time and place to be specified in a subsequent order upon the following issues in addition to the issues specified by the Commission in its Memorandum Opinion and Order of April 3, 1957 in Dockets Numbers 11973 and 11974:

1. To determine whether, in view of the installation and operation of equipment other than that specified in its construction permits, there has been construction and/or operation of Stations K–70–AL and K–73–AD without prior Commission authorization, and, if so, whether such construction and/or operation would preclude the issuance of licenses to cover permits pursuant to section 319 (a) of the Communications Act of 1934, as amended.

2. To determine whether there was any willful intent on the part of the permittee to disregard the specifications of its construction permits with respect to the type of equipment to be installed and the maximum Effective Radiated Power to be utilized.

3. To determine, in light of the evidence adduced on the above issues and the issues specified in the Commission's Order of April 3, 1957, whether a grant of the applications (BMPTT–5, BMPTT–6, BLTT–11, BLTT–12) for modification of construction permits and licenses to cover would be in the public interest.

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

[F. R. Doc. 57–7519; Filed, Sept. 12, 1957; 8:51 a. m.]

[Docket Nos. 12089, 12090; FCC 57M–829]

PORT CITY TELEVISION CO., INC. AND BAYOU BROADCASTING CORP.

ORDER CONTINUING HEARING

In re applications of Port City Television Company, Inc., Baton Rouge, Louisiana, Docket No. 12089, File No. BPCT–2262; for construction permit for new television broadcast station; Bayou Broadcasting Corporation, Baton Rouge, Louisiana, Docket No. 12090, File No. BMPCT–4417; for modification of construction permit for new television broadcast station.

It is ordered, This 9th day of September 1957, that a further pre-hearing conference in the above-entitled matter will be held at 10:00 a. m., September 25, 1957, in the Commission's offices at Washington, D. C.; and

It is further ordered, That the hearing heretofore scheduled to commence September 16, 1957, is hereby rescheduled to commence at 10:00 a. m., October 2, 1957, in the Commission's offices at Washington, D. C.

Released: September 10, 1957.

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

[F. R. Doc. 57–7520; Filed, Sept. 12, 1957; 8:51 a. m.]

[Docket Nos. 12104, 12105; FCC 57M–828]

RALPH D. EPPERSON AND WILLIAMSBURG BROADCASTING CO.

NOTICE OF PREHEARING CONFERENCE

In re applications of Ralph D. Epperson, Wiliamsburg, Virginia, Docket No. 12104, File No. BP–10958; Mary Cobb and Richard S. Cobb, d/b as Williamsburg Broadcasting Co., Williamsburg, Virginia, Docket No. 12105, File No. BP–11199; for construction permits.

Notice is hereby given that a further prehearing conference will be held in the above-entitled matter at 10:00 a. m., September 23, 1957, in the Commission's offices at Washington, D. C.

Dated: September 9, 1957.

Released: September 10, 1957.

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

[F. R. Doc. 57–7521; Filed, Sept. 12, 1957; 8:51 a. m.]

[Docket Nos. 12144, 12145; FCC 57–948]

BEEHIVE TELECASTING CORP. AND JACK A. BURNETT

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Beehive Telecasting Corporation, Provo, Utah, Docket No. 12144, File No. BPCT–2051; Jack A. Burnett, Provo, Utah, Docket No. 12145, File No. BPCT–2264; for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of September 1957;

The Commission having under consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 11 in Provo, Utah; and

It appearing that the above-captioned applications are mutually exclusive, in that operation by more than one of the applicants would result in mutually destructive interference; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters of the fact that their applications were mutually exclusive, of the necessity for

a hearing and of all objections to their applications, and were given an opportunity to reply; and

It further appearing that upon due consideration of the above-captioned applications, the amendments filed thereto and the replies to the above letters, the Commission finds that Beehive Telecasting Corporation is legally, technically, financially and otherwise qualified to construct, own and operate the proposed television broadcast station; and that Jack A. Burnett is legally, technically and otherwise qualified to construct, own and operate the proposed television broadcast station;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-captioned applications of Beehive Telecasting Corporation and Jack A. Burnett are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

1. To determine the financial qualifications of Jack A. Burnett to construct, own and operate the proposed television broadcast station.

2. To determine on a comparative basis which of the operations proposed in the above-captioned applications would better serve the public interest, convenience and necessity in light of the record made with respect to the significant differences between the applicants as to:

(a) the background and experience of each having a bearing on its ability to own and operate the proposed television broadcast station.

(b) the proposals of each with respect to the management and operation of the proposed television broadcast stations.

(c) the programming service proposed in each of the above-captioned applications.

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

It is further ordered, That to avail themselves of the opportunity to be heard, Beehive Telecasting Corporation and Jack A. Burnett, pursuant to § 1.387 of the Commission's rules, in person or by attorney, shall within 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.

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

[F. R. Doc. 57-7522; Filed, Sept. 12, 1957; 8:51 a. m.]

[Docket No. 12146 etc.; FCC 57-949]

UNITED BROADCASTING CO., INC., ET AL

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARINGS ON STATED ISSUES

In re applications of United Broadcasting Company, Inc., Wilmington, North Carolina, Docket No. 12146, File No. BPCT-2169; Carolina Broadcasting System, Inc., Wilmington, North Carolina, Docket No. 12147, File No. BPCT-2191; New Hanover Broadcasting Company, Wilmington, North Carolina, Docket No. 12148, File No. BPCT-2310; for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 5th day of September 1957;

The Commission having under consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 3 in Wilmington, North Carolina; and

It appearing that the above-captioned applications are mutually exclusive, in that operation by more than one of the applicants, as proposed, would result in mutually destructive interference; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters of the fact that their applications are mutually exclusive, of the necessity for a hearing and of all objections to their applications, and were given an opportunity to reply; and

It further appearing that Carolina Broadcasting System, Inc. proposes a main studio location outside of Wilmington, the principal city; that Carolina Broadcasting System, Inc. has requested a waiver of § 3.613 (a) of the rules which requires that the main studio be located within the principal community unless good cause therefor is shown as provided in § 3.613 (b); and that such a showing has been made; and

It further appearing that upon due consideration of the above-captioned applications, the amendments thereto, and the replies to the above letters, the Commission finds that United Broadcasting Company, Inc. is qualified to construct, own and operate the proposed television broadcast station except as to issues "1", "2", "3", and "4" below; that Carolina Broadcasting System, Inc. is legally, technically, financially and otherwise qualified to construct, own and operate the proposed television broadcast station; and that New Hanover Broadcasting Company is legally, financially technically and otherwise qualified to construct, own and operate the proposed television broadcast station;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-captioned applications of United Broadcasting Company, Inc., Carolina Broadcasting System, Inc. and New Hanover Broadcasting Company 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 whether United Broadcasting Company, Inc., a Maryland Corporation, is authorized to construct, own and operate a television broadcast station in North Carolina.

2. To determine the financial qualifications of United Broadcasting Company, Inc. to construct, own and operate the proposed television broadcast station.

3. To determine the correct geographic coordinates of the antenna site proposed by United Broadcasting Company, Inc.

4. To determine the correct antenna power gain rating, the transmission line losses and transmitter power output of the installation proposed by United Broadcasting Company, Inc.

5. To determine on a comparative basis which of the operations proposed in the above-captioned applications would best serve the public interest, convenience and necessity in the light of the record made with respect to the significant differences among the applicants as to:

(a) The background and experience of each having a bearing on its ability to own and operate the proposed television broadcast stations.

(b) The proposals of each with respect to the management and operation of the television broadcast stations.

(c) The programming service proposed in each of the above-captioned applications.

6. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

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

It is further ordered, That to avail themselves of the opportunity to be heard, United Broadcasting Company, Inc., Carolina Broadcasting System, Inc., and New Hanover Broadcasting Company, pursuant to § 1.387 of the Commission's rules, in person or by attorney, shall within 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.

Released: September 10, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

[F. R. Doc. 57-7523; Filed, Sept. 12, 1957; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-11465]

HUMPHREYS COUNTY UTILITY DISTRICT

NOTICE OF APPLICATION

SEPTEMBER 9, 1957.

Take notice that The Humphreys County Utility District, a municipal corporation organized under the laws of

Tennessee and located at Waverly, Tennessee, filed on July 29, 1957, a petition or application for an order amending the order issued by the Federal Power Commission on May 27, 1957, in the above-entitled matter wherein the Tennessee Gas Transmission Company was directed to establish physical connection with the facilities of Applicant and to sell and deliver natural gas to the municipality in volumes not to exceed 1515 Mcf per day (at 14.73 psia). Applicant now requests that the volume of natural gas be increased from the amount specified in the order abovementioned to the amounts shown in the table below, and that the said order be amended directing Tennessee Gas Transmission Company to supply the volumes at the time the facilities of the Applicant, which are to be constructed, are ready for service.

The estimated annual and peak day gas requirements expressed in Mcf for the first three years of operations as now proposed are as follows:

Year	Annual	Peak day
1	273, 517	2, 611
2	463, 503	2, 737
3	474, 576	2, 915

Applicant represents that the reason for the increased requirements of natural gas from Tennessee Gas Transmission Company is that a new customer has located an industry in its service area and is demanding gas service to the extent of the amount of the requested increase, 1400 Mcf per day as a maximum.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 30, 1957.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-7497; Filed, Sept. 12, 1957; 8:46 a. m.]

[Docket No. E-6772]

DEPARTMENT OF THE INTERIOR, SOUTHWESTERN POWER ADMINISTRATION

NOTICE OF REQUEST FOR APPROVAL OF RATES AND CHARGES

SEPTEMBER 9, 1957.

Notice is hereby given that the United States Department of the Interior, on behalf of the Southwestern Power Administration (SWPA), has filed with the Federal Power Commission for confirmation and approval pursuant to the provisions of the Flood Control Act of 1944 (58 Stat. 887) the rates and charges for the sale of electric power and energy contained in an agreement dated April 29, 1957, between SWPA and the Southwestern Gas and Electric Company.

The agreement provides for SWPA to sell peaking power and energy and excess hydro energy to the Company and for the Company to sell power and energy to SWPA or for its account.

The rates and charges and certain related provisions contained in the proposed agreement are as follows:

(1) The Government shall sell and deliver and the Company shall purchase and receive (a) during each particular month, an amount of capacity equal to two times the greater of either the maximum sum of the non-simultaneous maximum 30-minute integrated demands established during any month of the elapsed period of the agreement at all points of delivery to the Government or for its account, or the total power which the Company is obligated to deliver to the Government and (b) during the contract year, an amount of energy equal to 1800 hours times such amount of capacity determined in (a) above. In the event such amount of capacity is increased or decreased during the contract year, the total number of kilowatt-hours (kwh) due the Company during the contract year shall be pro-rated for the remaining number of months in the contract year following such increase or decrease.

(2) *Payments by the company.* (a) The Company shall compensate the Government each month for the power and energy purchased pursuant to (1) above as follows:

Capacity charge. $1.20 per kw per month.
Energy charge. $0.002 per kwh for each kwh scheduled and received during the month.

(b) The Company shall compensate the Government each month for excess hydro energy as follows:

Excess hydro energy charge. $0.0015 per kwh for each kwh scheduled and received during the month.

(3) *Payments by the Government.* (a) The Government shall compensate the Company each month for power and energy delivered to the Government or for its account as follows:

Capacity charge. $1.65 per kw per month of the greater of either the maximum sum of the non-simultaneous maximum 30-minute integrated demands, established during any month of the elapsed period of the agreement, at all points of delivery to the Government or for its account, or the total power which the Company is obligated to deliver to the Government.

Energy charge. $0.003 per kwh for each kwh delivered to or for the account of the Government.

In addition, the Government shall, at the end of each contract year compensate the Company for each $0.01 increase in the average cost of fuel in the Company's thermal generating plant during such year above the average cost of $0.08 per million BTU, an amount equal to $0.00014 per kwh for the difference between the number of kwh delivered by the Company to the Government or for its account and the number of kwh (exclusive of excess hydro energy purchased and received by the Company) during such year.

(4) In addition, the agreement further provides that the Government will operate one or more generating units as condensers at the request of the Company, and the Company will furnish, without cost to the Government, the electric power and energy required for such condenser operation.

(5) It is also provided that the foregoing rates and charges shall remain in force and effect for a period of five years from the date of confirmation and approval of the Federal Power Commission at which time, and at the end of each succeeding five-year period, the rates and charges shall be reviewed and a new schedule of rates and charges for the succeeding five-year period submitted to the Federal Power Commission for confirmation and approval. In addition, because the rates and charges may be affected by conditions over which the two parties have no control, such rates and charges may be reviewed at any time at the request of either party. If the parties are unable to reach an agreement on a new schedule of rates and charges, which are the result of either the periodic or the requested review of the rates and charges, and the Government, in order to fulfill the requirements of section 5 of the Flood Control Act of 1944, submits a new schedule of rates and charges to the Federal Power Commission for confirmation and approval, the Company may terminate this proposed agreement by giving notice to the Government within 90 days after the date such new schedule of rates and charges is confirmed and approved by the Federal Power Commission; such termination to be effective on the date specified in such notice but not earlier than one year nor later than three years from the date of such notice: *Provided*, That all rates and charges for the sale of power and energy under this agreement as confirmed and approved by the Federal Power Commission shall become effective and applicable as of the date of such confirmation and approval.

The agreement shall remain in force and effect until July 1, 1976.

Any person desiring to make comments or suggestions with respect to the foregoing should submit the same in writing on or before October 1, 1957, to the Federal Power Commission, 441 G Street, NW., Washington 25, D. C. The proposed rates and the supplemental agreement in its entirety are on file with the Commission and are available for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-7498; Filed, Sept. 12, 1957; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24SF-2172]

IDEA INC.

ORDER PERMANENTLY SUSPENDING EXEMPTION

SEPTEMBER 5, 1957.

Idea Inc. having filed with the Commission on September 30, 1955, a notification on Form 1-A and an Offering Circular for the purpose of obtaining an exemption from the registration provisions of the Securities Act of 1933, pursuant to section 3 (b) thereof and Regu-

lation A thereunder, with respect to an offering of 200,000 shares of its Class A stock, $1 par value, at $1 a share;

The Commission having by order dated December 20, 1956, pursuant to Rule 223 (a) of Regulation A, temporarily suspended the aforesaid exemption;

The Commission having ordered a hearing to determine whether to vacate the order of temporary suspension or to enter an order permanently suspending the exemption;

Hearings having been held after appropriate notice, and the hearing examiner having filed a recommended decision;

The Commission having this day issued its Findings and Opinion; on the basis of said Findings and Opinion.

It is ordered, Pursuant to Rule 223 of Regulation A under the Securities Act of 1933, that the exemption from registration with respect to the above described offering of securities of Idea Inc. be, and it hereby is, permanently suspended.

By the Commission.

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

[F. R. Doc. 57-7499; Filed, Sept. 12, 1957; 8:47 a. m.]

[File No. 811-659]

CIVIL AND MILITARY INVESTORS MUTUAL FUND, INC.

NOTICE OF AND ORDER FOR HEARING CONCERNING CORPORATE NAME

SEPTEMBER 9, 1957.

On November 15, 1954 Government Personnel Mutual Fund, Inc. filed with this Commission, pursuant to the Investment Company Act of 1940 ("the act"), a Notification of Registration on Form N-8A in which it stated, among other things, that it proposed to engage in business as an open-end diversified management investment company. In November 1955 it filed its registration statement under the Securities Act of 1933 with respect to an offering of 300,000 shares of its stock, in which it represented that it proposed to limit the sale of such stock to personnel of the Federal State or local governments, including military personnel, or to organizations of such personnel.

In January 1956 the registrant changed its name to The Private Investment Fund for Governmental Personnel, Inc. and thereafter proceedings were instituted by the Commission to determine whether such name was deceptive or misleading within the scope of sections 35 (a) and (d) of the act. These proceedings culminated in a Findings, Opinion and Order of the Commission, dated January 18, 1957 (Investment Company Act Release No. 2474) in which it was found, among other things, that such name implied to the civilian and military personnel of the United States the approval by the United States of the registrant company or its securities in violation of sections 35 (a) and (d) of the act. It was further found that the name implied that the company had some particular investment or other advantage for the government employee or serviceman not obtainable by the general public, which implication rendered the name misleading and deceptive within the meaning of section 35 (d) of the act.

On March 22, 1957, the name of the corporation was changed to Civil and Military Investors Mutual Fund, Inc. No changes have been made in the investment policies of the Fund. An amended prospectus under the Securities Act of 1933 has been filed which discloses that the sale of the Fund's shares will no longer be restricted to personnel of the Federal, State or local governments but which states that "such personnel constitute a desirable group of investors for the Fund and its distributor to offer the Fund's shares to". Such prospectus further states that "no representation is here made or intended either (1) that the investment policy of this Fund or (2) that the terms on which its shares can be bought are more favorable to civil and military investors than to other persons".

It appearing to the Commission that the corporate name may contain representations or implications, as more fully set forth below, prohibited by section 35 (a) of the act or deceptive or misleading within the scope of section 35 (d) of the act; and

It further appearing to the Commission that it is in the public interest and the interest of investors that a hearing be held with respect to such matter, for the purpose of considering, in connection therewith, the various matters hereinafter set forth, and for the purpose of determining what order, if any, should be issued by the Commission pursuant to section 35 and any other applicable provisions of the Investment Company Act of 1940;

Wherefore it is ordered, That a hearing under the applicable provisions of the Investment Company Act of 1940 and the Rules of the Commission thereunder be held on the 23rd day of September, 1957, at 10:00 a. m., in the offices of the Securities and Exchange Commission, 425 Second Street, NW., Washington, D. C. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. At such hearing consideration will be given to the following matters and questions, without prejudice, however, to the specification of any additional issues which may be presented by the use of such corporate name:

(1) Whether the use of the words "Civil and Military Investors" in registrant's corporate name implies that there will be special investment or other advantages to the civil and military personnel of the Federal, State and local governments to whom the sale of the Fund's shares will be directed.

(2) Whether, if the corporate name implies special investment or other advantage as set forth in paragraph 1 above, such special investment or other advantage will in fact exist, and if not, whether such corporate name is deceptive or misleading within the scope of section 35 (d) of the act.

(3) Whether the use of the name "Civil and Military Investors Mutual Fund, Inc." and specifically the use of the words "Civil and Military" in such name, may have the effect of representing or implying that such registrant, or any securities issued by it has been guaranteed, sponsored, recommended, or approved by the United States or any agency or any officer thereof, in violation of section 35 (a) of said act, and, if such representation or implication exists, whether such representation or implication renders such name deceptive or misleading within the scope of section 35 (d) of the act.

(4) Whether for any other reason such name is inconsistent with the provisions of said act;

(5) What order, if any, should be entered with respect to the use of such name or any words in such name, pursuant to the applicable provisions of the act.

It is further ordered, That James G. Ewell, or any officer or officers of the Commission designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

It is further ordered, That the Secretary of this Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to Civil and Military Investors Mutual Fund, Inc., 1033 30th Street, NW., Washington, D. C., and that notice to all persons shall be given by publication of this notice and order in the FEDERAL REGISTER; and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

It is further ordered, That any person desiring to be heard in said proceedings, shall file with the Secretary of the Commission his application as provided by Rule XVII of the rules of practice, on or before the date provided in that rule setting forth any issues of law or facts which he desires to controvert or any additional issues which he deems raised by this notice and order or by such application.

By the Commission.

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

[F. R. Doc. 57-7500; Filed, Sept. 12, 1957; 8:47 a. m.]

[File No. 1-703]

PHILADELPHIA INSULATED WIRE CO.

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

SEPTEMBER 9, 1957.

In the matter of Philadelphia Insulated Wire Company capital stock; File No. 1-703.

Philadelphia-Baltimore Stock Exchange has made application, pursuant

to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, to strike the above named security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

There are only 17 holders of this stock. There have been no sales on the Exchange during the years 1955 and 1956. In filing the delisting application, the Exchange has complied with a request of the issuer.

Upon receipt of a request, on or before September 24, 1957, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57-7501; Filed, Sept. 12, 1957; 8:47 a. m.]

PHOENIX HOSIERY CO.

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

SEPTEMBER 9, 1957.

In the matter of Phoenix Hosiery Company common stock; File No. 1-73.

New York Stock Exchange has made application, pursuant to Section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, to strike the above named security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

In the opinion of the Exchange, the Company does not meet the Exchange's requirements for continued listing in that the total outstanding Common Stock of the Company is held by less than 250 holders of record.

Dealings on the Exchange in the Common Stock of the Company were suspended before the opening of the trading session on August 19, 1957.

Upon receipt of a request, on or before September 24, 1957, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57-7502; Filed, Sept. 12, 1957; 8:47 a. m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-VII-1, Amdt. 1]

CHIEF, FINANCIAL ASSISTANCE DIVISION

DELEGATION RELATING TO FINANCIAL ASSISTANCE FUNCTIONS

Delegation of Authority No. 30-VII-1 (22 F. R. 6449) is hereby amended by:

SEC. 1: Deleting subsection I. B. 2 in its entirety and substituting the following in lieu thereof:

2. To approve disaster loans in an amount not exceeding $50,000.

Dated: August 28, 1957.

WILLIAM H. KELLEY,
Regional Director,
Chicago Regional Office.

[F. R. Doc. 57-7503; Filed, Sept. 12, 1957; 8:47 a. m.]

TITLE 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die*, and until all public acts have received final Presidential consideration, a listing of public laws approved by the President subsequent to adjournment will appear in the daily FEDERAL REGISTER under *Title 2, The Congress*. A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 85th Congress, First Session.

Acts Approved September 11, 1957

S. 2792 ..... Public Law 85-316.
To amend the Immigration and Nationality Act, and for other purposes.