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Title 3—THE PRESIDENT

Executive Order 11006

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN EASTERN AIR LINES, INC., AND CERTAIN OF ITS EMPLOYEES

WHEREAS a dispute exists between the Eastern Air Lines, Inc., a carrier, and certain of its employees represented by the Flight Engineers' International Association, EAL Chapter, a labor organization; and

WHEREAS this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of airline employees or any carrier.

The board shall report its findings to the President with respect to the dispute within thirty days from the date of this order.

As provided by Section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by Eastern Air Lines, Inc., or by its employees, in the condition out of which the dispute arose.

JOHN F. KENNEDY

THE WHITE HOUSE,
February 22, 1962.

[F.R. Doc. 62-2018; Filed, Feb. 26, 1962; 10:59 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter IV—The President's Committee on Equal Employment Opportunity

PART 401—NONDISCRIMINATION IN GOVERNMENT EMPLOYMENT

Interpretation

Pursuant to Executive Order 10925 of March 6, 1961 (26 F.R. 1977), 5 C.F.R. 401.19a is amended to read as hereinbelow set out.

This amendment shall be effective upon publication in the FEDERAL REGISTER.

§ 401.19a Interpretation of § 401.19.

Section 401.19 shall be construed as providing the complainant, upon request, with the right to receive a concise and accurate summary of the facts pursuant to his complaint, and upon which the agency relied in reaching a decision, together with a statement of the reasons for the agency action in denying the claim of the complainant. The agency may, in lieu of a summary statement, make available to the complainant the entire report of the agency's investigation of the complaint. In cases in which the complainant or his agent is provided with such summary statement, the Executive Vice Chairman or his representative shall have the right, upon request, to examine all data in the record gathered by the agency pursuant to an investigation of the complaint.

Signed at Washington, D.C., this 20th day of February 1962.

JERRY R. HOLLEMAN,
Executive Vice Chairman.

[F.R. Doc. 62-1915; Filed, Feb. 26, 1962; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

[Amdt. No. 31]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

PEAS (CANNING AND FREEZING)

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1962 crop year for canning and freezing peas in the following respects:

1. The table following paragraph (a) of § 401.3 of this chapter is amended effective beginning with the 1962 crop year for peas by adding the following insertion immediately below that portion of the table showing a closing date for potatoes:

Canning and Freezing Peas	Mar. 1

2. The following section is added:

§ 401.38 The canning and freezing pea endorsement.

The provisions of the canning and freezing pea endorsement for the 1962 and succeeding crop years are as follows:

1. *Causes of loss insured against.* The insurance provided is against unavoidable loss of production due to wildlife, insect infestation, plant disease, earthquake, drought, flood, hail, wind, frost, freeze, heat, lightning, fire, excessive rain, snow, hurricane, tornado and any other unavoidable causes of loss due to adverse weather conditions, subject, however, to any exceptions, exclusions or limitations with respect to such causes of loss that are set forth on the county actuarial table: *Provided, however,* That failure to harvest and market any acreage as green peas when such failure is not due to insurable causes shall not be a cause of loss insured against.

2. *Insured crop.* The insured crop shall be canning and freezing peas grown under a contract of, or for, sale between the insured and a processor executed by the time the acreage to be insured is reported. Insurance shall not be considered to have attached on any field of peas which is not a processor contract field of peas nor on any acreage not under such a contract or on any acreage excluded from such contract for the crop year pursuant to the terms thereof.

3. *Production guarantee and price per pound.* (a) The provisions of section 3 of the policy with respect to guaranteed production and amounts of insurance per acre shall not be applicable under this endorsement. For each crop year of the contract the production guarantee, and the price at which indemnities shall be computed shall be those established by the Corporation and shown on the county actuarial table.

(b) At the time the application for insurance is made the applicant shall elect a price at which indemnities shall be computed from among those shown on the county actuarial table. If any applicant fails to make an election or elects a price not shown on the actuarial table, the price which shall be in effect shall be the amount provided on the county actuarial table for such purposes. As to any succeeding crop year any insured may change the price which was in effect for a prior crop year and make a new election by notifying the county office in writing of such election before contracts are terminated for indebtedness for the crop year for which the election is to become effective. If no such change is made the price at which indemnities shall be computed shall be the price most recently in force under the contract but for any crop year shall not exceed the maximum price as shown on the county actuarial table.

4. *Insurance period.* Insurance on any insured acreage shall attach at the time the insured crop is planted and shall cease upon the earlier of vining, combining (in the case of dry peas), removal from the field, final adjustment of loss, or September 30 of the crop year.

5. *Notice of loss, damage, or failure to harvest.* (a) If, during the growing season, the insured crop on any insurance unit is damaged to the extent that the insured does not expect to further care for the crop or he wants the consent of the Corporation to put the acreage to another use, including letting the acreage go to dry peas, the insured shall promptly give written notice of such damage to the Corporation at the county office.

(b) For any unit on which a loss is probable, written notice shall be given to the Corporation immediately, within 48 hours, if harvesting is discontinued on any acreage before the entire acreage on the unit is harvested for green peas or at the time harvest for green peas should normally be commenced on any unit if the insured does not expect to harvest or is unable to harvest the acreage for green peas.

(c) If an insured loss occurs on any insurance unit the insured shall give prompt written notice to the Corporation at the county office within 15 days after harvesting is completed on the insurance unit.

(d) The Corporation reserves the right to reject any claim for loss if any of the requirements of this section are not met if it determines that it has been prejudiced by such failure.

6. *Claims for loss.* (a) In lieu of section 11(c) of the policy, the following shall apply: Losses shall be determined separately for each insurance unit (hereinafter called "unit"). The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the insured interest, and (4) multiplying this result by the applicable price for computing indemnities: *Provided,* That, if for the insurance unit the insured fails to report all of his interest or insurable acreage, the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 2 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for an insurance unit shall be determined by the Corporation and shall include all vined or combined production and any appraisals made by the Corporation for unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted for any acreage not harvested nor considered as harvested within the meaning of the term "harvested" shall not be less than 25 percent of the production guarantee for such acreage: *Provided, further,* That the production to be counted for any acreage of peas which is abandoned or put to another use without the consent of the Corporation shall be the production guarantee provided on the county actuarial table for such acreage: *Provided further,* That the production to be counted for any acreage of peas which is undamaged and not harvested as green peas shall not be less than the production guar-

antee provided on the county actuarial table for such acreage.

(b) Notwithstanding the provisions of paragraph (a) of this section: All production to be counted shall be adjusted to the pound equivalent of the quality guarantee shown on the county actuarial table as follows:

Green peas—By relating the processor contract price for the quality of the actual or appraised production to the processor contract price for the production of the quality guaranteed.

Dry peas—By relating the value to the applicable green pea processor contract price for the production of the quality guaranteed, as determined by the Corporation.

7. *Meaning of terms.* For the purpose of insurance on canning and freezing peas the terms:

(a) "Processor contract field of peas" means a field of canning or freezing peas designated or described under a contract of, or for, sale between the insured and a processor for delivery in the current crop year, as determined by the Corporation from such contract.

(b) "Insurance unit," notwithstanding section 21(g) of the policy, means the insurable acreage on each processor contract field of peas in the county in which the insured has an interest.

(c) "Harvest" or "harvested" means the swathing or cutting of the vines for vining the green peas or combining the dry peas. For the purpose of determining any loss under the contract any acreage shall not be considered as harvested unless the Corporation determines that at the time of harvest the production equivalent harvested therefrom equals not less than 25 percent of the production guarantee for such acreage.

(d) "Vining" means separating the peas from the pods.

8. *Cancellation, termination for indebtedness, and discount dates.* (a) For each crop year of the contract the cancellation date shall be the December 31 and the termination date for indebtedness shall be the March 1 immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective.

(b) For the 1962 crop year only the discount date shall be December 31, 1962.

9. *Annual premium.* For the 1962 crop year only, notwithstanding the provisions of section 4(e) of the policy to the contrary, the discount therein provided shall be inapplicable under this endorsement.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on February 16, 1962.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on February 21, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-1931; Filed, Feb. 26, 1962; 8:50 a.m.]

[Amdt. No. 32]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

CORN

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1962 crop year in the following respects:

1. The corn endorsement shown in § 401.20 of this chapter is amended effective beginning with the 1962 crop year by adding a new section 9 to read as follows:

9. *Special provisions applicable only in McLean and Livingston Counties, Illinois, Fillmore County, Minnesota, Henry and Wood Counties, Ohio, and Walworth County, Wisconsin.* (a) For the 1962 or any succeeding crop year any insured in McLean and Livingston Counties, Illinois, Fillmore County, Minnesota, Henry and Wood Counties, Ohio, and Walworth County, Wisconsin, may elect that the provisions of this section 9 shall apply to his contract of insurance in lieu of the provisions of section 5 of this endorsement by notifying the county office in writing of such election prior to the termination date for indebtedness for such crop year or he may terminate any such election by notifying the county office in writing prior to such date. In the event of such election the reference in the third sentence of section 4 of this endorsement to section 5 shall be deemed to be a reference to subsection (c) of this section 9.

(b) The provisions of section 3 of the policy with respect to guaranteed production and amounts of insurance per acre shall not be applicable under this endorsement if the insured elects that the provisions of this section 9 shall apply to his contract of insurance. For each crop year of the contract the bushel guarantee, and the price at which indemnities shall be computed shall be those established by the Corporation and shown on the county actuarial table.

At the time the application for insurance is made, if the applicant elects that the provisions of this section 9 shall apply to his contract of insurance, he shall also elect a price per bushel at which indemnities shall be computed from among those shown on the county actuarial table. Any insured with a contract in force prior to the 1962 crop year or commencing with the 1962 crop year who elects that the provisions of this section 9 shall apply, shall also elect the price per bushel to be in effect beginning with the 1962 crop year. If any such applicant or such insured fails to make an election or elects a price per bushel not shown on the actuarial table, the price per bushel which shall be in effect shall be the amount provided on the county actuarial table for such purposes.

As to any succeeding crop year any such insured may change the price per bushel which was in effect for a prior crop year and make a new election by notifying the county office in writing of such election before contracts are terminated for indebtedness for the crop year for which the election is to become effective. If no such change is made, the price per bushel at which indemnities shall be computed shall be the price most recently in force under the contract but for any crop year shall not exceed the maximum price per bushel as shown on the county actuarial table.

(c) In lieu of section 11(c) of the policy, the following shall apply: Losses shall be determined separately for each insurance unit. The amount of loss with respect to any insurance unit shall be determined by (1) multiplying the insured acreage of corn on the insurance unit by the applicable bushel guarantee per acre, which product shall be the bushel guarantee for the insurance unit, (2) subtracting therefrom the total production to be counted for the insurance unit, (3) multiplying the remainder by the insured interest, and (4) multiplying this result by the applicable price per bushel for computing indemnities: *Provided,* That if for the insurance unit the insured fails to report all of his interest or insurable acreage the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 2 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for an insurance unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all harvested production and any appraisals made by the Corportion for unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted on any acreage of the insured crop which is appraised by the Corporation and planted to dry edible beans, flax, grain sorghum or soybeans in the current crop year with the consent of the Corporation shall be not less than one-half of the guaranteed production provided for such acreage: *Provided, further,* That the production to be counted for any acreage of corn which is harvested for silage or fodder, or for the purpose of wet storage, or which is abandoned or put to another use without the consent of the Corporation shall be the guaranteed production provided for such acreage, except that where the insured has complied with the provisions of section 4 of this endorsement, the total production to be counted from any acreage of corn which is appraised by the Corporation and harvested for silage or fodder, or for the purpose of wet storage, shall be the total of such appraisal but not to exceed the guaranteed production for that acreage.

(d) Notwithstanding the provisions of paragraph (c) of this section for determining production to be counted, the production of corn to be counted, excluding corn harvested for silage, fodder, wet storage or any appraisal of production made prior to normal harvesttime, which has a moisture content of 29 percent or more due to insurable causes occurring during the insurance period, shall be adjusted as hereinafter provided. The production of any such corn with a moisture content of: (1) 29 percent through 31.9 percent shall be adjusted by multiplying the number of bushels by 75 percent, (2) 32 percent through 34.9 percent shall be adjusted by multiplying the number of bushels by 50 percent, (3) 35 percent through 37.9 percent shall be adjusted by multiplying the number of bushels by 25 percent and (4) 38 percent or more shall not be counted.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on February 16, 1962.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on February 21, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-1932; Filed, Feb. 26, 1962; 8:50 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER D—SPECIAL PROGRAMS

[1962 Wheat Stabilization Program, Supp. 1]

PART 776—WHEAT STABILIZATION PROGRAM

Subpart—1962 Wheat Stabilization Program Regulations

CORRECTION

In F.R. Doc. 61-11295, beginning on page 11407 of the issue for Saturday, December 2, 1961, the table to § 776.52 is corrected as follows:

§ 776.52 County average yields and county payment rates for wheat.

* * * * *

District	County	1959-60 adjusted average yield (bushels)	45% payment rate per acre (dollars)	60% payment rate per acre (dollars)
4	Lane	31.1	27.90	37.20
	Scott	34.5	30.70	41.00
	Wichita	33.0	29.20	39.00
7	Hamilton	30.5	27.00	36.10
	Stanton	30.5	26.90	35.90
5	Dickinson	25.1	23.10	30.80
	Marion	24.2	22.20	29.60
8	Harvey	25.6	23.50	31.40
3	Atchinson	28.2	26.90	35.80
	Doniphan	29.1	27.80	37.10
	Jackson	29.1	27.50	36.80
	Jefferson	27.5	26.30	35.00
	Leavenworth	27.0	25.90	34.30
	Marshall	26.5	24.80	33.10
	Pottawatomie	27.8	26.00	34.70
6	Wabaunsee	26.7	25.00	33.30
9	Greenwood	27.8	25.90	34.60
	Woodson	26.4	24.80	32.90

(Sec. 124(i), 75 Stat. 300)

Issued at Washington 25, D.C., this 20th day of February 1962.

Effective upon publication in the FEDERAL REGISTER.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-1933; Filed, Feb. 26, 1962; 8:50 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

[Sugar Determination 878.14]

SUBCHAPTER I—DETERMINATION OF PRICES

PART 878—SUGARCANE; VIRGIN ISLANDS

Prices; 1962 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and due consideration of the evidence obtained at the public hearing held in Christiansted, St. Croix, Virgin Islands, on November 17, 1961, the following determination is hereby issued:

§ 878.14 Fair and reasonable prices for the 1962 crop of Virgin Islands sugarcane.

A producer of sugarcane in the Virgin Islands who is also a processor of sugarcane (herein referred to as "processor"), shall have paid, or contracted to pay, for sugarcane of the 1962 crop grown by other producers and processed by him at rates not less than those determined in accordance with the following requirements, or at a combined rate of not less than the sum of the rates determined in accordance with the following requirements:

(a) *Definitions.* For the purpose of this section, the term:

(1) "Raw sugar" means raw sugar as made converted to a 96° basis.

(2) "Settlement period" means the two-week period in which sugarcane is delivered by the producer to the processor. The first such period shall start on Monday of the week grinding commences and successive periods shall start at two-week intervals thereafter. Odd days at the end of the grinding season shall be included in the preceding period if less than 7 days and if 7 days or more shall constitute a separate settlement period.

(3) "Price of raw sugar" means the simple average of the daily spot quotations for sugar deliverable under the New York Coffee and Sugar Exchange No. 7 domestic contract (bulk sugar) for the settlement period, except that, if the Director of the Sugar Division determines that any such price quotation does not reflect the true market value of raw sugar because of inadequate volume or other factors, he may designate the price to be effective under this determination, which he determines will reflect the true market value of raw sugar.

(4) "F.o.b. mill price" means the price of raw sugar minus selling and delivery expenses actually incurred by the processor in marketing raw sugar of the 1962 crop.

(5) "Yield of raw sugar" means the quantity of raw sugar recovered per 100 pounds of sugarcane determined for each settlement period in accordance with the following procedure:

(i) A representative sample shall be taken of each producer's daily deliveries of sugarcane during the settlement period and ground by a laboratory power mill. The juice extracted therefrom shall be analyzed for Brix and sucrose content by standard methods of analysis.

(ii) Application shall then be made of the formula, $R=(S-0.3B)F$, where:

R=Yield of raw sugar.
S=Sucrose content of the laboratory power mill juice obtained from the sugarcane of each producer.
B=Brix of the laboratory power mill juice obtained from the sugarcane of each producer.
F=Yield factor which is determined as follows:

(*a*) Determine the "tentative recovery of raw sugar" for each producer delivering sugarcane during the settlement period, from the product of the formula (S−0.3B), and the number of hundredweights of sugarcane; and

(*b*) Divide the pounds of raw sugar, 96° basis, produced and estimated from all sugarcane received and tested during the settlement period by the sum of the "tentative recoveries of raw sugar" for all producers to obtain the yield factor F.

(iii) In the event any sugarcane was not processed during the settlement period in which it was received and tested, the quantity of sugar produced during such period shall be increased by attributing to such sugarcane an estimated quantity determined by multiplying the number of tons of such unprocessed sugarcane by the average percentage of sugar, 96° basis, that was recovered from all sugarcane processed during such settlement period. The quantity of sugar so estimated shall be deducted from the sugar produced during the subsequent period.

(b) *Payment for sugarcane.*

(1) The payment for sugarcane delivered by the producer to the processor during a settlement period shall be calculated on the basis of the f.o.b. mill price for that portion of the raw sugar determined by applying not less than the following applicable percentage to the yield of raw sugar from the producer's sugarcane:

Pounds of raw sugar per 100 pounds of sugarcane:	Percentage
6.0	53.0
7.0	54.0
8.0	55.0
9.0	56.0
10.0	57.0
11.0	58.0
12.0	59.0

Intermediate points within the scale are to be interpolated to the nearest one-tenth point. Points below 6 pounds or above 12 pounds of raw sugar are to be in proportion to the immediately preceding interval.

(2) The processor shall pay to the producer for each 100 pounds of sugarcane delivered an amount for molasses computed by applying the following applicable percentage to the product of 10.50 cents per gallon and the average number of gallons of blackstrap molasses produced per 100 pounds of sugarcane of the 1962 crop:

Pounds of raw sugar per 100 pounds of sugarcane:	Percentage
6.0	86.0
7.0	80.0
8.0	74.0
9.0	68.0
10.0	62.0
11.0	56.0
12.0	50.0

Intermediate points within the scale are to be interpolated to the nearest one-tenth point. Points below 6 pounds or above 12 pounds of raw sugar are to be in proportion to the immediately preceding interval.

(c) *Delivery point and transportation allowances.* The price for sugarcane established by this section shall be applicable to sugarcane delivered to the mill. For each 100 pounds of sugarcane delivered to the mill the processor shall make an allowance to the producer for loading and transporting such sugarcane in an amount not less than one-half of the loading and transportation rate applicable to the 1961 crop. The rates and allowances shall be posted at the mill by the processor.

(d) *Reporting requirements.* The processor shall submit in duplicate to the Caribbean Area Agricultural Stabilization and Conservation Service Office, Santurce, Puerto Rico, for approval a certified statement itemizing the actual expenses deducted in determining the f.o.b. mill price of raw sugar.

(e) *Subterfuge.* The processor shall not reduce the returns to the producer below those determined in accordance with the requirements of this determination through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1962 crop grown by other producers.

(b) *Requirements of the act.* Section 301(c)(2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay, under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

(c) *1962 price determination.* This determination continues the provisions of the 1961 determination except that the amount of the allowance by the processor to producers for transporting sugarcane from the farm to the mill is based on rates which are not less than those applicable to the 1961 crop and the molasses payment to producers is based on 10.5 cents per gallon instead of 10.75 cents per gallon.

A public hearing was held in Christiansted, St. Croix, Virgin Islands, on November 17, 1961, at which interested persons were afforded the opportunity to testify with respect to fair and reasonable prices for the 1962 crop. The representative of the Virgin Islands Corporation recommended that the molasses payment to producers be based on the actual price received by the processor from the sale of molasses. The witness stated that the Corporation does not produce enough molasses to supply the needs of the local distiller; that during 1961 the Corporation negotiated a new contract with the distiller establishing a formula whereby the price for molasses produced by the Corporation would be 2 cents per gallon less than the price paid for the first 500,000 gallons of molasses imported by the distillers during the year; that if no molasses were imported and the parties were unable to reach an agreement the contract provides for arbitration of the price for molasses; that the quantity of 500,000 gallons was agreed upon as representing a reasonable volume of molasses on which to base a price; and that the deduction of 2 cents per gallon from the price of imported molasses was one-half of the estimated 4 cent cost if the Corporation shipped its molasses out of the Virgin Islands. The witness testified that the Corporation paid producers a higher percentage share of the sugar recovered from 1961 crop sugarcane than was required by the determination and proposed to pay such higher share for the sugar recovered from 1962 crop sugarcane; that the molasses payment to producers was based on the price for molasses specified in the 1961 determination which was higher than the actual price for molasses received by the Corporation; that the new dock facilities permit the loading of raw sugar on board ship by a conveyor system which is expected to reduce marketing expenses about $2.00 per ton of sugar; that the allowance paid to producers for loading and transporting sugarcane was increased 20 percent for the 1961 crop as compared with the 1960 crop and the Corporation had agreed with producers to review such rates with a view to a possible further increase for the 1962 crop; that on the basis of current estimates the Corporation made a profit of $166,000 on the production of 1961-crop sugarcane but sustained a loss of $213,000 on its milling operation, resulting in an overall loss of $47,000 even though a record crop was produced; and that the loss for the 1962 crop probably would be greater since a considerably smaller crop is in prospect.

Consideration has been given to the recommendations made at the hearing, to the returns, costs, and profits of producing and processing sugarcane obtained by field study, and to other pertinent factors. The returns, costs, and profits of independent producers and the processor, obtained by survey for prior years, have been recast to reflect prospective price and production conditions for the 1962 crop. This analysis indicates that the sharing relationship provided in this determination will be favorable to independent producers.

The Virgin Islands Corporation is the largest producer and only processor of sugarcane in the Virgin Islands. Since its formation in 1949 the Corporation's sugarcane growing operation has shown a profit in 1956, 1957, 1959, and 1961. However, the sugarcane processing operation has sustained losses ranging as high as $400,000 in 1960, when the crop was severely affected by drought. The profit on the sugarcane producing operation in 1957 was sufficient to offset the processing loss, and in that year only was a profit realized on the overall sugar operations.

As a result of an analysis of a study of returns, costs, and profits of the producing and processing operations of the Virgin Islands Corporation, the 1958 determination provided for a reduction of about 10 percent in the producers' share of sugar recovered from their sugarcane. A study of the returns, costs, and profits of independent producers' sugarcane operations confirmed that the reduced sharing relationship was equitable to producers and such relationship has been continued in subsequent determinations.

The provision of the prior determination which related the price of molasses, upon which the molasses payment to producers was based, to the most recent 5-year average net proceeds from sales of molasses by processors in Puerto Rico is continued. This method was first adopted in the 1958 determination inasmuch as contractual arrangements of the Corporation required that most of its annual production of molasses be marketed to Island distillers at negotiated prices, and since there were only one or two local buyers the establishment of a local market price was not practicable. Under the present pricing arrangement between the Corporation and the distiller the price of molasses is contingent upon importations from foreign countries, and if no molasses is imported the price must then be agreed upon or arbitrated. In these circumstances it is deemed desirable to continue a fixed price in the determination based upon the net proceeds realized in Puerto Rico where competitive marketing practices prevail.

With regard to any difference in the price for molasses actually realized and that specified in the determination, it is again pointed out that if the combined payments for sugarcane determined on the basis of the producers' share of raw sugar as authorized by the Board of Directors of the Corporation and on the actual sales price of molasses are equal to or in excess of the total payments computed in accordance with the formulae provided in the determination, the minimum requirements of the determination will have been met.

The 1961 determination provided that sugarcane loading and transportation allowances to producers be based on rates which were 20 percent higher than in 1960, and that the rates were to be posted at the mill. The Corporation agreed with producers to pay the higher rates in 1961 and indicated that it would review the rates with a view to a further increase for the 1962 crop. The arrangement for the 1962 crop has not yet been announced. This determination establishes a minimum requirement that loading and transportation allowances are to be based on rates not less than those applicable in 1961.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948, as amended. (Sec. 403, 61 Stat. 932; 7 U.S.C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U.S.C. Supp. 1131.)

Signed at Washington, D.C., on February 20, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-1934; Filed, Feb. 26, 1962; 8:50 a.m.]

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

[Grapefruit Reg. 3]

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF., AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Limitation of Shipments

§ 909.303 Grapefruit Regulation 3.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of White Water, California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Administrative Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011), because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held an open meeting on February 15, 1962, to consider recommendations for a regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such open meeting; necessary supplemental economic and statistical information upon which this recommended regulation is based was received by the Fruit Branch on February 20, 1962; information regarding the provisions of the regulation recommended by the committee has been disseminated to shippers of grapefruit, grown as aforesaid, and this section, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this section effective on the date hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., February 25, 1962, and ending at 12:01 a.m., P.s.t., March 11, 1962, no handler shall handle:

(i) From the State of California or the State of Arizona to any point outside thereof any grapefruit of any variety grown in the State of Arizona; in Imperial County, California; or in that part of Riverside County, California, situated south and east of White Water, California, unless such grapefruit grade at least U.S. No. 2: *Provided,* That included in the tolerances for defects permitted by such grade not more than 5 percent, by count, shall be allowed for grapefruit having peel more than one inch in thickness at the stem end, measured from the flesh to the highest point of the peel; or

(ii) From the State of California or the State of Arizona to any point outside thereof in the United States, any grapefruit, grown as aforesaid, which measure less than $3\frac{11}{16}$ inches in diameter, except that a tolerance of 5 percent, by count, of grapefruit smaller than the foregoing minimum size shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the revised United States Standards for Grapefruit (California and Arizona), §§ 51.925–51.955 of this title: *Provided,* That, in determining the percentage of grapefruit in any lot which are smaller than $3\frac{11}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size $4\frac{7}{16}$ inches in diameter and smaller.

(2) As used herein, "handler," "variety," "grapefruit," and "handle" shall have the same meaning as when used in said amended marketing agreement and order; the term "U.S. No. 2" shall have the same meaning as when used in the aforesaid revised United States Standards for Grapefruit; and "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit.

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

Dated: February 20, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62–1911; Filed, Feb. 26, 1962; 8:48 a.m.]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Approval of Expenses and Rate of Assessment

Notice of rule making regarding proposed expenses and rate of assessment, to be effective under Marketing Agreement No. 144 and Order No. 971 (7 CFR Part 971; formerly Order No. 134, Part 1034) regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas, was published in the FEDERAL REGISTER November 17, 1961 (26 F.R. 10773). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which proposals were adopted and submitted for approval by the South Texas Lettuce Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 971.202 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the South Texas Lettuce Committee, established pursuant to Marketing Agreement No. 144, and this part, for its maintenance and functioning during the fiscal period November 1, 1961, through October 31, 1962 will amount to $30,000.00.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 144 and this part shall be two cents ($0.02) per carton of lettuce handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 144 and this part.

It is hereby found that good cause exists for not postponing the effective time of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) the relevant provisions of said marketing agreement and this part require that rates of assessment fixed for a particular fiscal period shall be applicable to all assessable lettuce from the beginning of such period, and (2) the current fiscal period began on November 1, 1961, and the rate of assessment herein fixed will automatically apply to all assessable lettuce beginning with such date.

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

Dated: February 21, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62–1913; Filed, Feb. 26, 1962; 8:48 a.m.]

PART 990—HANDLING OF CENTRAL CALIFORNIA GRAPES FOR CRUSHING

Expenses of the Grape Crush Administrative Committee and Rate of Assessment

Notice was published in the February 9, 1962, issue of the FEDERAL REGISTER (27 F.R. 1217) regarding a proposal to approve expenses of the Grape Crush Administrative Committee for the period beginning on August 26, 1961, and ending on June 30, 1962, and fix the rate of assessment for that period, pursuant to the provisions of Marketing Agreement No. 133 and Order No. 990 (7 CFR Part 990), regulating the handling of Central California grapes for crushing. This marketing agreement and order program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Interested persons were afforded opportunity to submit written data, views, or arguments with respect to the proposal. The prescribed time has elapsed and no such communications have been received.

After consideration of all relevant matters presented, including the information and recommendations submitted by the committee, and other available information, it is hereby found and determined that the authorized expenses of the Grape Crush Administrative Committee and the rate of assessment dur-

ing the aforesaid period shall be as follows:

§ 990.301 Expenses of the Grape Crush Administrative Committee and rate of assessment.

(a) *Expenses.* Expenses[1] in the amount of $189,178 are reasonable and are likely to be incurred, pursuant to § 990.71, by the Grape Crush Administrative Committee during the period beginning on August 26, 1961 and ending on June 30, 1962 of the initial crop year, for the maintenance and functioning of the committee and the Grape Crush Advisory Board, and for such other purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for the period beginning on August 26, 1961, and ending on June 30, 1962, of the initial crop year, which each handler shall, pursuant to § 990.72, pay with respect to all free tonnage (including tonnage of those varieties exempted from volume regulation by § 990.202) grapes for crushing, including such grapes of his own production, received by him during such period is fixed at 19.5 cents per ton of fresh grapes and the equivalent amount of 34.5 cents per ton of raisin residual material.

It is hereby further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003(c)) in that: (1) The relevant provisions of said marketing agreement and order require that a rate of assessment fixed for a particular crop year shall be applicable to all free tonnage (including tonnage of those varities exempted from volume regulation by § 990.202) grapes for crushing, including such grapes of his own production, received by him during such period; and (2) this period began on August 26, 1961, and the rate of assessment herein fixed will automatically apply to all such grapes for crushing beginning with that date.

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

Dated: February 20, 1962.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 62–1912; Filed, Feb. 26, 1962; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C–10]

PART 13—PROHIBITED TRADE PRACTICES

Smolowitz & Benkel, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185–90 *Wool Products Labeling Act;* § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–90 *Wool Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845–80 *Wool Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–80 *Wool Products Labeling Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68) [Cease and desist order, Smolowitz & Benkel, Inc., et al., New York, N.Y., Docket C–10, Oct. 23, 1961]

In the Matter of Smolowitz & Benkel, Inc., a Corporation, and Nathan Smolowitz and Samuel Small, Individually and as Officers of Said Corporation

Consent order requiring New York City manufacturers to cease violating the Wool Products Labeling Act by labeling as "50 percent wool, 50 percent reprocessed wool", men's and boys' caps which contained a substantial quantity of nonwoolen fibers; by failing to disclose on labels the true generic names of fibers present in such caps, and the percentage thereof; by failing to disclose the fiber composition of knitted ear covers of different fiber composition from the caps themselves; and by failing in other respects to comply with requirements of the Act.

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

It is ordered, That Smolowitz & Benkel, Inc., a corporation, Nathan Smolowitz and Samuel Small individually and as officers of the said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, distribution, or delivery for shipment, in commerce, of wool products, as "commerce" and "wool products" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein.

2. Failing to securely affix to, or place on, each such product, a stamp, tag, label or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. Failing to disclose by sections and to separately set forth on the required stamp, tag, label or other means of identification the character and amount of the constituent fibers contained in each section of such wool products as required by Rule 23(b) of the rules and regulations promulgated under the aforesaid Wool Products Labeling Act of 1939.

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

Issued: October 23, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62–1898; Filed, Feb. 26, 1962; 8:46 a.m.]

[Docket No. C–8]

PART 13—PROHIBITED TRADE PRACTICES

Ludwig, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108–45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845–30 *Fur Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–35 *Fur Products Labeling Act;* § 13.1865 *Manufacture or preparation:* § 13.1865–40 *Fur Products Labeling Act;* § 13.1900 *Source or origin:* § 13.1900–40 *Fur Products Labeling Act:* § 13.1900–40(b) *Place.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Ludwig, Inc., et al., Boston, Mass., Docket C–8, Oct. 23, 1961]

In the Matter of Ludwig, Inc., a Corporation, and Herbert Ludwig, and Alvin Ludwig, Individually and as Officers of the Said Corporation

Consent order requiring Boston furriers to cease violating the Fur Products Labeling Act by failing to disclose in labeling and invoicing fur products when the fur was dyed; failing to show on invoices the true animal name of the fur and the country of origin of imported furs; and failing in other respects to comply with labeling and invoicing requirements.

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

It is ordered, That Ludwig, Inc., a corporation and its officers, and Herbert Ludwig and Alvin Ludwig, individually and as officers of the said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product," are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

[1] Other than expenses incurred in receiving, handling, holding, or disposing of set aside.

A. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Failing to set forth separately on labels affixed to fur products composed of two or more sections containing different animal furs the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section.

C. Failing to set forth on labels the item number or mark assigned to a fur product.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

B. Failing to set forth on invoices the item number or mark assigned to a fur product.

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

Issued: October 23, 1961.

By the Commission.

JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-1896; Filed, Feb. 26, 1962; 8:46 a.m.]

[Docket No. C-9]

PART 13—PROHIBITED TRADE PRACTICES

Joe D. Riff and Riff's

Subpart—Advertising fasely or misleadingly: § 13.155 *Prices:* § 13.155-40 *Exaggerated as regular and customary;* § 13.155-45 *Fictitious marking.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Products Labeling Act;* § 13.1900 *Source or origin:* § 13.1900-40 *Fur Products Labeling Act:* § 13.1900-40(a) *Maker or seller.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Joe D. Riff trading as Riff's, Longview, Tex., Docket C-9, Oct. 23, 1961]

Consent order requiring a furrier in Longview, Tex., to cease violating the Fur Products Labeling Act by failing to identify on labels the manufacturer or seller of fur products; by advertising prices of fur products as reduced from usual prices which were, in fact, fictitious; by failing to keep adequate records as a basis for price and value claims; and by failing in other respects to comply with labeling and invoicing requirements.

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

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

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Setting forth on labels affixed to fur products information required under Section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with non-required information.

C. Failing to set forth on labels the item number or mark assigned to a fur product.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

B. Failing to set forth on invoices the item number or mark assigned to a fur product.

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

A. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the prices at which respondent has usually and customarily sold such products in the recent regular course of business.

B. Misrepresents in any manner the savings available to purchasers of respondents fur products.

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

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

Issued: October 23, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-1897; Filed, Feb. 26, 1962; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-LA-13]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration

On February 2, 1962, Federal Register Document 62-1538 was published in the FEDERAL REGISTER (27 F.R. 1411) amending Part 600 and § 600.1613 or the regulations of the Administrator by designating VOR Federal airway No. 538 from Twentynine Palms, Calif., to Las Vegas, Nev., and by realigning VOR Federal airway No. 1613 from Mission Bay, Calif., to Las Vegas. These amendments are effective April 5, 1962.

Subsequent to the publication of this document, the name of the navigation facility serving San Diego has been changed from "Mission Bay" to "San Diego". In addition, action to designate control areas associated with Victor 538 was omitted from this document. Therefore, action is taken herein to alter § 600.1613 to reflect the name change and to add § 601.6538 to Part 601 of the regulations of the Administrator.

Since these alterations are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary and the effective date of the final rule as initially adopted may be retained.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), effective immediately, Federal Register Document No. 62-1538 is altered as follows:

In Item No. 2, delete "Mission Bay" wherever it appears and substitute "San Diego" therefor.

Add Item No. 3 to read:

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

§ 601.6538 VOR Federal airway No. 538 control areas (Twentynine Palms, Calif., to Las Vegas, Nev.).

All of VOR Federal airway No. 538.

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

Issued in Washington, D.C., on February 21, 1962.

LEE E. WARREN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 62-1916; Filed, Feb. 28, 1962; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Change in Names of Organizational Units

Pursuant to section 701(a) of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625): *It is ordered,* That the new drug regulations (21 CFR 130; 26 F.R. 2595) be amended in the following respects:

1. The name "New Drug Branch" is changed to read "Division of New Drugs" wherever it occurs in Part 130 of this chapter.

2. The name "Veterinary Medical Branch" is changed to read "Division of Veterinary Medicine" wherever it occurs in Part 130 of this chapter.

Effective date. This order is effective on the date of signature.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: February 19, 1962.

WINTON B. RANKIN,
Assistant Commissioner
of Food and Drugs.

[F.R. Doc. 62-1909; Filed, Feb. 26, 1962; 8:47 a.m.]

Chapter II—Bureau of Narcotics, Department of the Treasury

[T.D. 67]

PART 305—OPIATES

Termination of Ethyl 1-(2-carbamylethyl)-4-phenyl-4-piperidinecarboxylate as an opiate

Notice is hereby given pursuant to the provisions of section 4731(g)(2) of the Internal Revenue Code, as amended, of the revocation of the finding heretofore made declaring the drug known as Ethyl 1-(2-carbamylethyl)-4-phenyl-4-piperidinecarboxylate (and its salts) as an opiate. This determination has been made after considering the technical advice of the delegate of the Secretary of Health, Education, and Welfare who has advised that this drug (and its salts) does not in fact have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine nor is it capable of conversion into a drug having such addiction-forming or addiction-sustaining liability with relative technical simplicity and degree of yield as to create a risk of improper use.

Accordingly, § 305.2 is amended by deleting therefrom the words "Ethyl 1-(2-carbamylethyl)-4-phenyl-4-piperidinecarboxylate".

Because this amendment of § 305.2 relieves restrictions and is within the exception of section 4(c) of the Administrative Procedure Act it is found unnecessary to issue this Treasury Decision with notice and public procedure thereon.

Effective date. This Treasury Decision shall become effective upon the date of its publication in the FEDERAL REGISTER.

(26 U.S.C. 4731(g)(2), sec. 4(b), Pub. Law 86-429 (74 Stat. 57); sec. 17, Pub. Law 86-429 (74 Stat. 67))

[SEAL] H. J. ANSLINGER,
Commissioner of Narcotics.

Approved: February 16, 1962.

JAMES A. REED,
Assistant Secretary of the
Treasury.

[F.R. Doc. 62-1923; Filed, Feb. 26, 1962; 8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55574]

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

Articles Returned After Exportation for Repairs, Alterations, or Processing

A certificate of registration (customs Form 4455) is required to be filed in connection with entries under paragraph 1615(g) of the Tariff Act of 1930, as amended, for articles exported from the United States for repairs, alterations, or processing and returned to the United States. To prescribe the procedure to be followed when articles exported and registered at time of exportation are returned in several shipments at a port or ports other than the port from which exported, § 10.8(j) of the Customs Regulations is hereby amended by adding at the end thereof the following: "When articles are exported and registered on a customs Form 4455, as provided for in this section, and the articles are reimported at a port other than the port from which exported, the duplicate Form 4455 may be used in making entry at such port of reimportation. Where entry at such port is to be made for only a portion of the merchandise covered by the duplicate Form 4455, the collector may make an extract for use at his port and transmit the duplicate Form 4455 with notation of the extract to the collector at the port of exportation. With respect to additional entries to be made at the same or other ports of reimportation, the collector at the port of exportation (where the original Form 4455 is filed) will, upon request by the importer or the collector at the port of reimportation, issue to the collector at the port of reimportation, an extract of Form 4455 for use in making entry at that port."

(Secs. 201 (par. 1615), 624, 46 Stat. 674, as amended, 759; 19 U.S.C. 1201 (par. 1615), 1624)

[SEAL] PHILIP NICHOLS, Jr.,
Commissioner of Customs.

Approved: February 20, 1962.

JAMES POMEROY HENDRICK,
Acting Assistant Secretary
of the Treasury.

[F.R. Doc. 62-1922; Filed, Feb. 26, 1962; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6591]

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

PART 18—CERTAIN INCOME TAX MATTERS UNDER THE TECHNICAL AMENDMENTS ACT OF 1958

Prepaid Subscription Income

On December 14, 1960, a notice of proposed rule making regarding the regulations under section 455 of the Internal Revenue Code of 1954, relating to prepaid subscription income, effective for taxable years beginning after December 31, 1957; was published in the FEDERAL REGISTER (25 F.R. 12833). After consideration of all such relevant matter as was presented by interested parties regarding the rules proposed, the regulations as so published are hereby adopted, subject to the changes set forth below. Such regulations supersede § 18.1-6 of Treasury Decision 6335 (26 CFR Part 18), approved November 19, 1958 (23 F.R. 8981).

PARAGRAPH 1. Section 1.455-4 is revised.

PAR. 2. Paragraph (a) of § 1.455-5 is revised by deleting subparagraph (2) and renumbering subparagraph (3) as (2).

PAR. 3. Paragraph (b) of § 1.455-6 is revised.

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: February 21, 1962.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

The following regulations relating to prepaid subscription income, effective for taxable years beginning after December 31, 1957, are hereby prescribed under section 455 of the Internal Revenue Code of 1954, as added by section 28 of the Technical Amendments Act of 1958 (72 Stat. 1625):

Sec.

1.455 Statutory provisions; prepaid subscription income.
1.455-1 Treatment of prepaid subscription income.
1.455-2 Scope of election under section 455.
1.455-3 Method of allocation.
1.455-4 Cessation of liability.
1.455-5 Definitions and other rules.
1.455-6 Time and manner of making election.

AUTHORITY: §§ 1.455 to 1.455–6 issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

§ 1.455 Statutory provisions; prepaid subscription income.

Sec. 455. *Prepaid subscription income*—(a) *Year in which included.* Prepaid subscription income to which this section applies shall be included in gross income for the taxable years during which the liability described in subsection (d)(2) exists.

(b) *Where taxpayer's liability ceases.* In the case of any prepaid subscription income to which this section applies—

(1) If the liability described in subsection (d)(2) ends, then so much of such income as was not includible in gross income under shall be included in gross income for the taxable year in which the liability ends.

(2) If the taxpayer dies or ceases to exist, then so much of such income as was not includible in gross income under subsection (a) for preceding taxable years shall be included in gross income for the taxable year in which such death, or such cessation of existence, occurs.

(c) *Prepaid subscription income to which this section applies*—(1) *Election of benefits.* This section shall apply to prepaid subscription income if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such income is received. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. No election may be made with respect to a trade or business if in computing taxable income the cash receipts and disbursements method of accounting is used with respect to such trade or business.

(2) *Scope of election.* An election made under this section shall apply to all prepaid subscription income received in connection with the trade or business with respect to which the taxpayer has made the election; except that the taxpayer may, to the extent permitted under regulations prescribed by the Secretary or his delegate, include in gross income for the taxable year of receipt the entire amount of any prepaid subscription income if the liability from which it arose is to end within 12 months after the date of receipt. An election made under this section shall not apply to any prepaid subscription income received before the first taxable year for which the election is made.

(3) *When election may be made*—(A) *With consent.* A taxpayer may, with the consent of the Secretary or his delegate, make an election under this section at any time.

(B) *Without consent.* A taxpayer may, without the consent of the Secretary or his delegate, make an election under this section for his first taxable year (i) which begins after December 31, 1957, and (ii) in which he receives prepaid subscription income in the trade or business. Such election shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made.

(4) *Period to which election applies.* An election under this section shall be effective for the taxable year with respect to which it is first made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary or his delegate to the revocation of such election. For purposes of this title, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

(d) *Definitions.* For purposes of this section—

(1) *Prepaid subscription income.* The term "prepaid subscription income" means any amount (includible in gross income) which is received in connection with, and is directly attributable to, a liability which extends beyond the close of the taxable year in which such amount is received, and which is income from a subscription to a newspaper, magazine, or other periodical.

(2) *Liability.* The term "liability" means a liability to furnish or deliver a newspaper, magazine, or other periodical.

(3) *Receipt of prepaid subscription income.* Prepaid subscription income shall be treated as received during the taxable year for which it is includible in gross income under section 451 (without regard to this section).

(e) *Deferral of income under established accounting procedures.* Notwithstanding the provisions of this section, any taxpayer who has, for taxable years prior to the first taxable year to which this section applies, reported his income under an established and consistent method or practice of accounting for prepaid subscription income (to which this section would apply if an election were made) may continue to report his income for taxable years to which this title applies in accordance with such method or practice.

[Sec. 455 as added by sec. 28, Technical Amendments Act 1958 (72 Stat. 1625)]

§ 1.455–1 Treatment of prepaid subscription income.

Effective with respect to taxable years beginning after December 31, 1957, section 455 permits certain taxpayers to elect with respect to a trade or business in connection with which prepaid subscription income is received, to include such income in gross income for the taxable years during which a liability exists to furnish or deliver a newspaper, magazine, or other periodical. If a taxpayer does not elect to treat prepaid subscription income under the provisions of section 455, such income is includible in gross income for the taxable year in which received by the taxpayer, unless under the method or practice of accounting used in computing taxable income such amount is to be properly accounted for as of a different period.

§ 1.455–2 Scope of election under section 455.

(a) If a taxpayer makes an election under section 455 and § 1.455–6 with respect to a trade or business, all prepaid subscription income from such trade or business shall be included in gross income for the taxable years during which the liability exists to furnish or deliver a newspaper, magazine, or other periodical. Such election shall be applicable to all prepaid subscription income received in connection with the trade or business for which the election is made; except that the taxpayer may further elect to include in gross income for the taxable year of receipt (as described in section 455(d)(3) and paragraph (c) of § 1.455–5) the entire amount of any prepaid subscription income if the liability from which it arose is to end within 12 months after the date of receipt, hereinafter sometimes referred to as "within 12 months" election.

(b) If the taxpayer is engaged in more than one trade or business in which a liability is incurred to furnish or deliver a newspaper, magazine, or other periodical, a separate election may be made under section 455 with respect to each such trade or business. In addition, a taxpayer may make a separate "within 12 months" election for each separate trade or business for which it has made an election under section 455.

(c) An election made under section 455 shall be binding for the first taxable year for which the election is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Commissioner to the revocation of such election. Thus, in any case where the taxpayer has elected a method prescribed by section 455 for the inclusion of prepaid subscription income in gross income, such method of reporting income may not be changed without the prior approval of the Commissioner. In order to secure the Commissioner's consent to the revocation of such election, an application must be filed with the Commissioner in accordance with section 446(e) and the regulations thereunder. For purposes of subtitle A of the Code, the computation of taxable income under an election made under section 455 shall be treated as a method of accounting. For adjustments required by changes in method of accounting, see section 481 and the regulations thereunder.

(d) An election made under section 455 shall not apply to any prepaid subscription income received before the first taxable year to which the election applies. For example, Corporation M, which computes its taxable income under an accrual method of accounting and files its income tax returns on the calendar year basis, publishes a monthly magazine and customarily sells subscriptions on a 3-year basis. In 1958 it received $135,000 of 3-year prepaid subscription income for subscriptions beginning during 1958, and in 1959 it received $142,000 of prepaid subscription income for subscriptions beginning after December 31, 1958. In February 1959 it elected, with the consent of the Commissioner, to report its prepaid subscription income under the provisions of section 455 for the year 1959 and subsequent taxable years. The $135,000 received in 1958 from prepaid subscriptions must be included in gross income in full in that year, and no part of such 1958 income shall be allocated to the years 1959, 1960, and 1961 during which M was under a liability to deliver its magazine. The $142,000 received in 1959 from prepaid subscriptions shall be allocated to the years 1959, 1960, 1961, and 1962.

(e) No election may be made under section 455 with respect to a trade or business if, in computing taxable income, the cash receipts and disbursements method of accounting is used with respect to such trade or business. However, if the taxpayer is on a "combination" method of accounting under section 446(c)(4) and the regulations thereunder, it may elect the benefits of section 455 if it uses an accrual method of accounting for subscription income.

§ 1.455–3 Method of allocation.

(a) Prepaid subscription income to which section 455 applies shall be included in gross income for the taxable years during which the liability to which the income relates is discharged or is deemed to be discharged on the basis of the taxpayer's experience.

(b) For purposes of determining the period or periods over which the liability

of the taxpayer extends, and for purposes of allocating prepaid subscription income to such periods, the taxpayer may aggregate similar transactions during the taxable year in any reasonable manner, provided the method of aggregation and allocation is consistently followed.

§ 1.455–4 Cessation of taxpayer's liability.

(a) If a taxpayer has elected to apply the provisions of section 455 to a trade or business in connection with which prepaid subscription income is received, and if its liability to furnish or deliver a newspaper, magazine, or other periodical ends for any reason, then so much of the prepaid subscription income attributable to such liability as was not includible in its gross income under section 455 for preceding taxable years shall be included in its gross income for the taxable year in which such liability ends. A taxpayer's liability may end, for example, because of the cancellation of a subscription. See section 381(c)(4) and the regulations thereunder for the treatment of prepaid subscription income in a transaction to which section 381(a) applies.

(b) If a taxpayer who has elected to apply the provisions of section 455 to a trade or business dies or ceases to exist, then so much of the prepaid subscription income attributable to such trade or business which was not includible in its gross income under section 455 for preceding taxable years shall be included in its gross income for the taxable year in which such death or cessation of existence occurs. See section 381(c)(4) and the regulations thereunder for the treatment of prepaid subscription income in a transaction to which section 381(a) applies.

§ 1.455–5 Definitions and other rules.

(a) *Prepaid subscription income.* (1) The term "prepaid subscription income" means any amount includible in gross income which is received in connection with, and is directly attributable to, a liability of the taxpayer which extends beyond the close of the taxable year in which such amount is received and which is income from a newspaper, magazine, or other periodical. For example where Corporation X, a publisher of newspapers, magazines, and other periodicals makes sales on a subscription basis and the purchaser pays the subscription price in advance, prepaid subscription income would include the amounts actually received by X in connection with its liability to furnish or deliver the newspaper, magazine, or other periodical.

(2) For purposes of section 455, prepaid subscription income does not include amounts received by a taxpayer in connection with sales of subscriptions on a prepaid basis where such taxpayer does not have the liability to furnish or deliver a newspaper, magazine, or other periodical. The provisions of this subparagraph may be illustrated by the following example. Corporation D has a contract with each of several large publishers which grants it the right to sell subscriptions to their periodicals. Corporation D collects the subscription price from the subscribers, retains a portion thereof as its commission and remits the balance to the publishers. The amount retained by Corporation D represents commissions on the sale of subscriptions, and is not prepaid subscription income for purposes of section 455 since the commissions represent compensation for services rendered and are not directly attributable to a liability of Corporation D to furnish or deliver a newspaper, magazine, or other periodical.

(b) *Liability.* The term "liability" means a liability of the taxpayer to furnish or deliver a newspaper, magazine, or other periodical.

(c) *Receipt of prepaid subscription income.* For purposes of section 455, prepaid subscription income shall be treated as received during the taxable year for which it is includible in gross income under section 451, relating to general rule for taxable year of inclusion, without regard to section 455.

(d) *Treatment of prepaid subscription income under an established accounting method.* Notwithstanding the provisions of section 455 and § 1.455–1, any taxpayer who, for taxable years beginning before January 1, 1958, has reported prepaid subscription income for income tax purposes under an established and consistent method or practice of deferring such income may continue to report such income in accordance with such method or practice for all subsequent taxable years to which section 455 applies without making an election under section 455.

§ 1.455–6 Time and manner of making election.

(a) *Election without consent.* (1) A taxpayer may, without consent, elect to treat prepaid subscription income of a trade or business under section 455 for the first taxable year—

(i) Which begins after December 31, 1957, and

(ii) In which there is received prepaid subscription income from the trade or business for which the election is made.

Such an election shall be made not later than the time prescribed by law for filing the income tax return for such year (including extensions thereof), and shall be made by means of a statement attached to such return.

(2) The statement shall indicate that the taxpayer is electing to apply the provisions of section 455 to his trade or business, and shall contain the following information:

(i) The name and a description of the taxpayer's trade or business to which the election is to apply;

(ii) The method of accounting used in such trade or business;

(iii) The total amount of prepaid subscription income from such trade or business for the taxable year;

(iv) The period or periods over which the liability of the taxpayer to furnish or deliver a newspaper, magazine, or other periodical extends;

(v) The amount of prepaid subscription income applicable to each such period; and

(vi) A description of the method used in allocating the prepaid subscription income to each such period.

In any case in which prepaid subscription income is received from more than one trade or business, the statement shall set forth the required information with respect to each trade or business subject to the election.

(3) See paragraph (c) of this section for additional information required to be submitted with the statement if the taxpayer also elects to include in gross income for the taxable year of receipt the entire amount of prepaid subscription income attributable to a liability which is to end within 12 months after the date of receipt.

(b) *Election with consent.* A taxpayer may, with the consent of the Commissioner, elect at any time to apply the provisions of section 455 to any trade or business in which it receives prepaid subscription income. The request for such consent shall be in writing, signed by the taxpayer or its authorized representative, and shall be addressed to the Commissioner of Internal Revenue, Attention: T:R:C, Washington 25, D.C. The request must be filed on or before the later of the following dates: (1) 90 days after the beginning of the first taxable year to which the election is to apply or (2) May 28, 1962, and must contain the information described in paragraph (a)(2) of this section. See paragraph (c) of this section for additional information required to be submitted with the request if the taxpayer also elects to include in gross income for the taxable year of receipt the entire amount of prepaid subscription income attributable to a liability which is to end within 12 months after the date of receipt.

(c) *"Within 12 months" election.* (1) A taxpayer who elects to apply the provisions of section 455 to any trade or business may also elect to include in gross income for the taxable year of receipt (as described in section 455(d)(3) and paragraph (c) of § 1.455–5) the entire amount of any prepaid subscription income from such trade or business if the liability from which it arose is to end within 12 months after the date of receipt. Any such election is binding for the first taxable year for which it is effective and for all subsequent taxable years, unless the taxpayer secures permission from the Commissioner to treat such income differently. Application to revoke or change a "within 12 months" election shall be made in accordance with the provisions of section 446(e) and the regulations thereunder.

(2) The "within 12 months" election shall be made by including in the statement required by paragraph (a) of this section or the request described in paragraph (b) of this section, whichever is applicable, a declaration that the taxpayer elects to include such income in gross income in the taxable year of receipt, and the amount of such income. If the taxpayer is engaged in more than one trade or business for which the election under section 455 is made, it must include, in such statement or request, a declaration for each trade or business for

which it makes the "within 12 months" election. See also paragraph (e) of § 1.455–2.

(3) If the taxpayer does not make the "within 12 months" election for its trade or business at the time prescribed for making the election to include prepaid subscription income in gross income for the taxable years during which its liability to furnish or deliver a newspaper, magazine, or other periodical exists for such trade or business, but later wishes to make such election, it must apply for permission from the Commissioner. Such application shall be made in accordance with the provisions of section 446(e) and the regulations thereunder.

[F.R. Doc. 62–1920; Filed, Feb. 26, 1962; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 12—AMATEUR RADIO SERVICE

International Telecommunication Convention (Geneva, 1959)

The Commission having under consideration the amendment of Part 12 of the rules governing the Amateur Radio Service to effect the editorial changes described below;

It appearing, that the Atlantic City Radio Regulations have been superseded by the Geneva (1959) Radio Regulations; and

It further appearing, that Appendix 2 to Part 12 refers to the Atlantic City Radio Regulations; and

It further appearing, that the amendment herein ordered makes no substantive change, and being editorial in nature, the prior Public Notice and effective date provisions of the Administrative Procedures Act are not applicable; and

It further appearing, that the amendment adopted herein is issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 0.341(a) of the Commission's statement of delegations of authority;

It is ordered, This 21st day of February 1962, that effective February 21, 1962, Appendix 2 to Part 12 is amended as set forth below.

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

Released: February 21, 1962.

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

Appendix 2 to Part 12 is amended to read as follows:

APPENDIX 2—EXTRACTS FROM RADIO REGULATIONS ANNEXED TO THE INTERNATIONAL TELECOMMUNICATION CONVENTION (GENEVA, 1959)

ARTICLE 41—AMATEUR STATIONS

SECTION 1. Radiocommunications between amateur stations of different countries shall be forbidden if the administration of one of the countries concerned has notified that it objects to such radiocommunications.

SEC. 2. (1) When transmissions between amateur stations of different cquntries are permitted, they shall be made in plain language and shall be limited to messages of a technical nature relating to tests and to remarks of a personal character for which, by reasoh of their unimportance, recourse to the public telecommunications service is not justified. It is absolutely forbidden for amateur stations to be used for transmitting international communications on behalf of third parties.

(2) The preceding provisions may be modified by special arrangements between the administrations of the countries concerned.

SEC. 3. (1) Any person operating the apparatus of an amateur station shall have proved that he is able to send correctly by hand and to receive correctly by ear, texts in Morse code signals. Administrations concerned may, however, waive this requirement in the case of stations making use exclusively of frequencies above 144 Mc/s.

(2) Administrations shall take such measures as they judge necessary to verify the technical qualifications of any person operating the apparatus of an amateur station.

SEC. 4. The maximum power of amateur stations shall be fixed by the administrations concerned, having regard to the technical qualifications of the operators and to the conditions under which these stations are to work.

SEC. 5. (1) All the general rules of the Convention and of these Regulations shall apply to amateur stations. In particular, the emitted frequency shall be as stable and as free from spurious emissions as the state of technical development for such stations permits.

(2) During the course of their transmissions, amateur stations shall transmit their call sign at short intervals.

[F.R. Doc. 62–1944; Filed, Feb. 26, 1962; 8:51 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XIV—The Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

Exemption of Common Carriers by Water

Section 1453.3(d)(2) *Fiscal years ending on or after December 31, 1953* is amended by deleting, in subdivision (i) thereof, the words "January 1, 1961", and inserting in lieu thereof the words "January 1, 1962".

(Sec. 109, 65 Stat. 22, 50 U.S.C. App. Sup. 1219)

Dated: February 21, 1962.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 62–1917; Filed, Feb. 26, 1962; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Coast Guard

[46 CFR Part 32]

[CGFR 62-3]

VENTING OF COFFERDAMS IN TANK VESSELS

Public Hearing on Proposed Changes

1. The Merchant Marine Council will hold a public hearing on Monday, March 12, 1962, commencing at 9:30 a.m., in the Departmental Auditorium, between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C., for the purpose of receiving comments, views, and data on the proposed changes in the navigation and vessel inspection regulations, as set forth in Items I to IX, inclusive, in the Merchant Marine Council Public Hearing Agenda, CG-249, dated March 12, 1962, and another notice of proposed rule making published January 23, 1962 (27 F.R. 657-665). In Item V (page 182, CG-249) and paragraph 75 of the published notice of proposed rule making (27 F.R. 662) are the changes originally proposed to 46 CFR 32.55-45 regarding "Venting of Cofferdams." In a review of the printed Agenda (CG-249) it was found that necessary additional changes to 46 CFR 32.55-1 and 32.55-45 had been unintentionally omitted. Therefore, in addition to the changes to 46 CFR 32.55-45 previously published, the following proposals will be considered by the Merchant Marine Council as a part of the material on "Venting of Cofferdams" in Item V—Tank Vessels:

a. It is proposed to amend 46 CFR 32.55-1(a) by deleting the word "and" and inserting a comma in the phrase "water tanks and cofferdams," and by inserting a phrase "and voids" after the word "cofferdams" so it will read as follows:

§ 32.55-1 Ventilation of tank vessels constructed on or after July 1, 1951—TB/ALL.

(a) On all tank vessels, the construction or conversion of which is started on or after July 1, 1951, all enclosed parts of the vessel other than cargo, fuel and water tanks, cofferdams and voids shall be provided with efficient means of ventilation.

b. It is proposed to designate the proposed text in 46 CFR 32.55-45 as paragraph (a) and to add a new paragraph (b) to read as follows:

§ 32.55-45 Venting of cofferdams and voids of tank vessels constructed on or after November 10, 1936—TB/ALL.

* * * * *

(b) On unmanned barges not fitted with a fixed bilge system in the cofferdams and voids, vents for cofferdams and voids will not normally be required but may be required in unusual circumstances.

2. The changes proposed to 46 CFR 32.55-45 in Item V of the Agenda (page 182, CG-249) and in 46 CFR 32.55-1 in this document are intended to clarify requirements for flame screens in vents for spaces not literally defined as cofferdams, i.e., rake ends and void wing spaces. The Coast Guard follows the policy that, while rake compartments and voids are not literally defined as cofferdams, they serve the same purpose. In addition the proposed change designated 46 CFR 32.55-45(b) is to clarify the requirements for unmanned tank barges. It is the present consensus of Coast Guard personnel and industry that vents for certain voids on unmanned barges are not necessities for such spaces and therefore vents will be required for safety only in unusual circumstances.

3. The authority for prescribing regulations governing tank vessels is in R.S. 4405, as amended, 4417a, as amended, and 4462, as amended; 46 U.S.C. 375, 391a, 416. These regulations also interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; and E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

4. Comments on the proposed regulations described in this document are welcomed. However, acknowledgments of the comments are not normally furnished because personnel are not available to handle the necessary correspondence involved. Each person who desires to submit written comments, views or suggestions in connection with the proposed regulations should submit them so that they will be received prior to March 9, 1962, by the Commandant (CMC), United States Coast Guard Headquarters, Washington 25, D.C. Comments, views or suggestions may be presented orally or in writing at the hearing before the Merchant Marine Council on March 12, 1962.

Dated: February 21, 1962.

[SEAL] A. C. RICHMOND,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 62-1930; Filed, Feb. 26, 1962; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 33]

SPORT FISHING

Washita National Wildlife Refuge, Oklahoma

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), it is proposed to amend 50 CFR 33.4 by the addition of the Washita National Wildlife Refuge, Oklahoma, to the list of wildlife refuge areas open to public sport fishing as legislatively permitted.

It has been determined that regulated public sport fishing may be permitted on the Washita National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 33.4 is amended by the addition of the following area as one where sport fishing is authorized.

§ 33.4 List of open areas; sport fishing.

* * * * *

OKLAHOMA

Washita National Wildlife Refuge.

FRANK P. BRIGGS,
Assistant Secretary of the Interior.

FEBRUARY 19, 1962.

[F.R. Doc. 62-1835; Filed, Feb. 26, 1962; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 959]

[959.302 Amdt. 1]

ONIONS GROWN IN SOUTH TEXAS

Miscellaneous Amendments

Notice is hereby given that the Secretary of Agriculture is considering approval of the amendment to the limitation of shipments hereinafter set forth, which was recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959).

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

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 10 days following publication of this notice in the FEDERAL REGISTER.

The proposed amendment is as follows:

In § 959.302 (27 F.R. 1451) delete paragraphs (a) and (h), and substitute in lieu thereof new paragraphs (a) and (h) as set forth below.

§ 959.302 Limitation of shipments.

* * * * *

(a) *Grades.* (1) From February 19, 1962, through March 20, 1962: U.S. No. 2, or better, grade.

(2) From March 21, 1962, through June 30, 1962: not to exceed 20 percent defects of U.S. No. 1 grade, or better quality.

* * * * *

(h) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" shall have the same meanings as set forth in the United States Standards for Bermuda-Granex Type Onions (§§ 51.3195–51.3209 of this title), or United States Standards for Grades of Onions (§§ 51.2830–51.2850 of this title), whichever is applicable to the particular variety, including the tolerances for decay and sizes set forth therein. In percentage grade lots, tolerances shall not exceed 2 percent decay. Double the lot tolerance shall be permitted in individual packages. All other terms used in this section shall have the same meaning as when used in Marketing Order No. 959 (Part 959 of this title).

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

Dated: February 21, 1962.

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

[F.R. Doc. 62–1940; Filed, Feb. 26, 1962; 8:50 a.m.]

[7 CFR Part 980]

ONION IMPORTS

Notice of Proposed Rule Making

Notice is hereby given that the Secretary of Agriculture is considering an amendment to § 980.100 *Onion Regulation No. 1* (formerly § 1070.1; 26 F.R. 10632, 11287), applicable to the importation of onions into the United States. This regulation is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674; Public Law 87–128).

Under Section 8e of the act, whenever two or more marketing orders for a commodity are in effect, the importation of such commodity shall be prohibited unless it complies with the grade, size, quality and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition.

It is hereby determined that imports of onions into the United States during the spring marketing season are in most direct competition with onions produced in the South Texas onion production area as defined in Marketing Order No. 959 (7 CFR Part 959), and that import regulations for onions during such period shall be based on regulations effective under said Order No. 959.

Consideration will be given to any data, views, or arguments, pertaining to the proposed amendment which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., not later than 15 days following publication of this notice in the FEDERAL REGISTER. The proposed amendment is as follows:

In § 980.100, Onion Regulation No. 1 (formerly § 1070.1, 26 F.R. 10632, 11287), delete paragraphs (a), (b), and (h), and substitute in lieu thereof new paragraphs (a), (b), and (h) as set forth below.

§ 980.100 Onion Regulation No. 1.

(a) *Import restrictions.* During the period from March 21, 1962, to June 30, 1962, both dates inclusive, no person shall import dry onions, except red onions, unless such onions are inspected and meet the requirements of not to exceed 20 percent defects of U.S. No. 1 grade, or better quality. The minimum size for white onions shall be 1 inch in diameter, and for all others 1¾ inches in diameter.

(b) *Condition.* Due consideration shall be given to the time required for transportation and entry of onions into the United States. For onions with transit time from country of origin to entry into the United States of ten or more days, onions otherwise meeting import quality and size requirements may be entered if they meet an average tolerance for decay of not more than 5 percent.

* * * * *

(h) *Definitions.* For the purpose of this part, "onions" means all varieties of Allium cepa marketed dry, except onion sets, green onions, and pickling onions. Onions commonly referred to as "braided," that is, with tops, may be imported if they meet the grade and size requirements except for top length. The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Onions (§§ 51.2830–51.2850 of this title), or United States Standards for Bermuda-Granex Type Onions (§§ 51.3195–51.3209 of this title), whichever is applicable to the particularly variety, including the tolerances set forth therein. Double the lot tolerance shall be permitted in individual packages. Onions meeting the requirements of Canada No. 1 grade shall be deemed to comply with the requirements of the U.S. No. 1 grade. "Importation" means release from custody of the United States Bureau of Customs.

Dated: February 21, 1962.

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

[F.R. Doc. 62–1941; Filed, Feb. 26, 1962; 8:50 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Parts 1008, 1009, 1030–1049, 1061–1064, 1067–1070, 1078, 1079, 1095, 1097, 1099, 1108]

MILK IN CERTAIN MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Part, Docket No., and Marketing Area

1008; AO–268–A6; Greater Wheeling.
1009; AO–268–A6; Clarksburg, W. Va.
1030; AO–101–A25; Chicago, Ill.
1031; AO–170–A13; South Bend-LaPorte-Elkhart, Ind.
1032; AO–313–A4; Suburban St. Louis.
1033; AO–166–A26; Greater Cincinnati.
1034; AO–175–A16; Dayton-Springfield, Ohio.
1035; AO–176–A14; Columbus, Ohio.
1036; AO–179–A22; Northeastern Ohio.
1037; AO–197–A7; North Central Ohio.
1038; AO–194–A7; Rockford-Freeport, Ill.
1039; AO–212–A13; Milwaukee, Wis.
1040; AO–225–A13; Southern Michigan.
1041; AO–72–A24; Toledo, Ohio.
1042; AO–240–A6; Muskegon, Mich.
1043; AO–247–A7; Upstate Michigan.
1044; AO–299–A3; Michigan Upper Peninsula.
1045; AO–334–A4; Northeastern Wisconsin.
1046; AO–308–A3; Ohio Valley.
1047; AO–33–A26; Fort Wayne, Ind.
1048; AO–325–A1; Greater Youngstown-Warren.
1049; AO–319–A2; Indianapolis, Ind.
1061; AO–327–A1; St. Joseph, Mo.
1062; AO–10–A27; St. Louis, Mo.
1063; AO–105–A15; Quad Cities-Dubuque.
1064; AO–23–A23; Greater Kansas City.
1067; AO–222–A11; Ozarks.
1068; AO–178–A13; Minneapolis-St. Paul, Minn.
1069; AO–153–A8; Duluth-Superior.
1070; AO–229–A7; Cedar Rapids-Iowa City.
1078; AO–272–A2; North Central Iowa.
1079; AO–295–A3; Des Moines, Iowa.
1095; AO–123–A25; Louisville-Lexington, Ky.
1097; AO–219–A10; Memphis, Tenn.
1099; AO–183–A7; Paducah, Ky.
1108; AO–243–A7; Central Arkansas.

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 Chicago, Illinois, on January 17, 18, and 19, 1962, pursuant to notice thereof issued on January 8, 1962 (27 F.R. 314).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary on February 7, 1962 (27 F.R. 1272; F.R. Doc. 62–1406) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

1. Basic formula prices used to compute Class I prices (and Class II price in the Chicago order),

2. Basic butterfat test in certain markets, and

3. Conforming changes in order language.

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

1. The monthly average price received by farmers for manufacturing grade milk in Minnesota and Wisconsin as published by the Department on about the 5th day following the month (adjusted to 3.5 percent butterfat) should be the basic formula price from which the Class I milk price is computed in each of the Federal orders named herein. This basic formula price should also be used in the computation of the Class II milk price under the Chicago order.

Class I prices in Federal order markets are established under the authority of the Agricultural Marketing Agreement Act. The standards for milk order prices described in the Act require that such prices reflect economic conditions which affect market supply and demand for milk in the marketing area. In accordance with these standards, Class I milk pricing formulas have been developed for use in the several Federal orders.

Class I milk price formulas, in markets here considered, employ a basic formula price representing a manufacturing milk value. To this is added a price differential, and in most of these markets a further adjustment is made to reflect the changing relationship of milk supplies to Class I milk disposition. The latter adjustment is commonly referred to as a supply-demand adjustment. Six of the orders considered here do not have basic formula prices, since the Class I prices thereunder are established at differentials from the Class I prices of other orders. Six additional orders contain basic formula prices but do not use them to compute prices for Class I milk. Prices under these orders are likewise maintained in fixed relationship to those of other orders.

Among the several markets, there is a considerable diversity of basic formulas employed. All of the basic formulas include alternative computations of which the highest is the effective formula. In each of these formulas the average Midwest condensery paying price is one of the alternatives. Also, each basic formula (except in the Chicago order for a few recent months) uses a butter-powder formula computation. Eight different butter-powder formulas are employed in the several orders. Five of the orders use computations based on butter and cheese prices, of which there are three variations. In five orders, paying prices reported by local manufacturing plants is an alternative computation.

Producer groups and handlers generally supported the adoption of a uniform basic formula for all the orders. The average price for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota as reported by the Department was supported by many of the producer groups as a basis for achieving such uniformity. Some producer groups and handlers favored use of a butter-powder formula either as the basic formula price or as an alternative computation.

Proponents of the Wisconsin-Minnesota manufacturing grade milk price as a basic formula price supported its adoption for the following reasons: (1) Current basic formulas are subject to certain defects or weaknesses; (2) the proposed price is a better measure of manufacturing milk values; and (3) a single basic formula price in all the orders would provide a desirable basis for price alignment among the several orders.

The lack of uniformity among the various basic formulas and the consequent diversity of results produced in Class I prices constitutes a serious problem with respect to coordination of prices among these markets. The extent to which the Midwest condensery price, common to all orders, has been the effective price, has mitigated this problem in the past.

The Midwest condensery price was originally based on reports by 18 plants. From time to time individual plants have ceased operations. Recently, eight plants (6 in Wisconsin and 2 in Michigan) have been reporting prices. Four of these are operated by a single firm and two others by another firm. A further reduction in number of plants included is anticipated. The plant at New Glarus, Wisconsin, is reported to be ceasing operations. In addition to the effect that reductions in the number of plants have had in impairing this average price as a representative value of manufacturing milk, there is substantial evidence that the posted pay prices reported for the two Michigan plants in the series do not currently reflect the total cost of milk to such plants. As a consequence of these developments the Midwest condensery price can no longer be considered fully reliable as an accurate measure of manufacturing milk values.

The formula computations based on butter and nonfat dry milk prices are intended to reflect a manufacturing milk value based on prices of these products. Among the eight butter-powder formulas used, yield factors representing the amount of nonfat dry milk obtained from 100 pounds of milk vary from 7.0 pounds to 8.2 pounds. Also the amount deducted to give recognition to cost of processing varies among the formulas. Such cost factors are rigid elements in these formulas which do not respond to changes in efficiency.

The formulas based on prices of butter and cheese are affected by considerations similar to those in connection with butter-powder formulas.

Local plant paying prices have tended to play a lesser role in establishing basic formula prices. Generally they have been lower than other alternative formula computations. Since different groups of plants are used in each order, uniformity of pricing among orders cannot be attained by use of such prices.

Uniformity of basic formulas is desirable for the purposes of aligning prices among related markets and promoting understanding of order pricing methods among parties in the industry. Further, in view of the disadvantages inherent in the existing formulas based on product prices and the lessening representation provided by the Midwest condensery prices, it is imperative that a sounder basis for determining basic formulas be provided.

The price for manufacturing grade milk in the two-state area of Wisconsin and Minnesota is issued by the State-Federal Crop Reporting Service on about the 5th day of each month for milk received at manufacturing plants in these states in the previous month. Plant operators report the total pounds of manufacturing grade milk received from farmers, the butterfat content, and total money paid to farmers for the milk. The two-state area is one in which there is a heavy concentration of manufacturing grade milk and where many plants are competing for such supply. In Minnesota about 80 percent of the milk sold off farms is manufacturing grade and in Wisconsin, about 65 percent. About 50 percent of the manufacturing grade milk sold off farms in the United States is produced in these two states.

The average price for manufacturing grade milk in Minnesota and Wisconsin, as available on the 5th day following the month, better meets the requirements for a basic formula price than other formulas now used. It is representative of prices paid to farmers for about half of the manufacturing grade milk produced in the country. It is a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. The system of reporting has been developed so that a reliable average price is available promptly and thus it provides just as current a basis for pricing milk as existing basic formulas.

It is concluded that the average price for manufacturing grade milk in Wisconsin and Minnesota, as reported by the Department on about the 5th day of the following month should be adopted as the basic formula price in these orders, excepting those where prices are determined on the basis of differentials from other markets.

Inasmuch as the manufacturing milk price for the two-state area is reported by the Department as the price at actual butterfat test, a method for adjustment to the butterfat test (3.5 percent) used in these orders must be adopted. For this purpose a generally recognized value of butterfat, 0.12 times the average wholesale price for 92-score butter at Chicago, should be used. Such a method of adjustment was favored by producer groups at the hearing. A handler representative suggested that adjustment by direct ratio method would be more representative of the practice among plants purchasing manufacturing milk. It was shown, however, that at 116 manufacturing plants in Wisconsin, payment for manufacturing grade milk was made on the direct ratio basis by only 21 of the plants. Ninety-one of the plants adjusted from 3.5 percent prices by use of butterfat differentials which, if used for conversion of the Minnesota-Wisconsin price to a 3.5 percent basis, would result in a price no less than that resulting from the differential proposed herein.

The proposal to use a butter-powder formula as an alternative basic formula computation is not adopted. To be effective, such a butter-powder formula would need to be constructed so that it represents about the same level of price as the Minnesota-Wisconsin manufacturing milk price. To the extent that it did become effective, it would tend to represent milk values in these particular uses rather than the general value in all major uses represented by the Minnesota-Wisconsin manufacturing milk price. Thus, it would tend to be less truly representative of manufacturing milk prices. Accordingly, such an alternative computation is unnecessary and undesirable.

Representatives of producer interests in these markets asked that certain adjustments be made in the Class I price differentials which are added to the basic formula price if the Minnesota-Wisconsin manufacturing milk price were used as the basic formula. Based upon average relationships in a seven year period (1955–1961) they asked that Class I differentials in individual markets be increased by amounts ranging from 2–3 cents in most markets to 10–13 cents in markets for which basic formula prices of the orders now include or have included particularly favorable butter-powder or butter-cheese alternative formulas. A number of handlers argued that the conversion should be based strictly upon current relationships prevailing for either the last five months of 1961 or for some portion of that period, and that action be such as to provide no current increase of price from the conversion. On this basis a suggestion was offered that the Class I differentials of most orders be reduced 10 cents, and that no change be made in the differentials of those few orders in which the butter-powder formula price currently exceeds the Minnesota-Wisconsin price.

Because of the variety of basic formulas among the various markets, a uniform basis for considering a need for such adjustments is not possible. Further, the existing basic formulas have not maintained precise relationships with the Minnesota-Wisconsin series during the years 1955 through 1961. In view of the variations in such relationships it is not possible to establish with any precision relationships which might be expected to obtain in the future.

In the Chicago order, effective beginning with September 1961, the price for manufacturing grade milk in Wisconsin and Minnesota became an alternative, along with the Midwest condensery price, for the basic formula price. This formula is accordingly reflected in eight markets whose prices are based on Chicago. These markets included Cedar Rapids-Iowa City, Des Moines, North Central Iowa, Ozarks, Quad Cities-Dubuque, Rockford-Freeport, St. Louis and Suburban St. Louis.

The transition to pricing Class I milk on the basis of the Minnesota-Wisconsin manufacturing milk price has already been accomplished without change in Class I differentials with respect to the Chicago market and the eight markets previously named in which the Class I price is established at a differential above or below the Chicago price. Because the Midwest condensery price has been lower than the Minnesota-Wisconsin price, the latter has established the level of Class I price. The price data for both series (condensery and Minnesota-Wisconsin) do not provide any basis for adjusting the Class I level in the Chicago order from that currently established on the basis of the Minnesota-Wisconsin price and existing Class I price differentials. For the three most recent years, 1959, 1960, and 1961, the Midwest condensery price has averaged 1 cent less than the Minnesota-Wisconsin price. Except for the latter part of 1961, the Midwest condensery price and the Minnesota-Wisconsin price represented virtually the same level of price. During recent months the Midwest condensery price has been below its former relationship with paying prices in the area, and has not reflected its usual relationship to values of manufactured dairy products. This relative weakness of the condensery price is a symptom of its progressive failure to represent accurately manufacturing milk values. In view of this situation it would not be appropriate to decrease Class I differentials in these markets to reflect recent levels in the condensery price.

For those orders which use the same basic formula price as contained in the Chicago order prior to the September 1, 1961, amendment, the same method of transition should be used. This will provide the best method of maintaining price alignment among markets. These markets include Milwaukee, Michigan Upper Peninsula, Northeast Wisconsin, Duluth-Superior and South Bend-LaPorte-Elkhart.

The Paducah order basic formula differs from those of the orders in this group only in the use of local plant prices. Since the local plant prices have been lower than the alternative computations they have not been effective as a basic formula. Accordingly, the same method of transition to the new basic formula would apply for the Paducah order as other markets with basic formulas which differ only in not including local plant prices.

The transition for 13 other markets considered at this hearing represents a problem similar to that in markets just discussed which have basic formulas of the type in the Chicago market prior to the September 1, 1961, amendment. These markets include:

Northeastern Ohio.	Muskegon.
Toledo.	Upstate Michigan.
Fort Wayne.	Kansas City.
Wheeling.	St. Joseph.
Clarksburg.	Minneapolis-St. Paul.
North Central Ohio.	Youngstown-Warren.
Southern Michigan.	

Among these, St. Joseph has a Class I price based on the price under the Kansas City order. Although the order contains a basic formula price this is not used to establish Class I prices. The Youngstown-Warren order similarly contains a basic formula price which is not used, since the price is established by relationship to the price under the Northeastern Ohio order. The North Central Ohio order contains no basic formula price, and the Class I price is based on the Class I price under the Northeastern Ohio order.

For all of these 13 markets, the effective basic formula prices in recent months have been only slightly different from the basic formula prices in markets with the type used in the Chicago order prior to September 1, 1961. The average difference of the basic formulas from the Wisconsin-Minnesota manufacturing milk price in the years 1959, 1960, and 1961 has been less than one cent. It is concluded that the transition to the new basic formula should be made without change in the Class I price differentials. Proposed reductions in the Class I differentials for some of these markets are denied because (1) such reductions would result in distortion of present price alignments among markets, and (2) the differentials should not be reduced to reflect the current weakness in condensery prices cited elsewhere in this decision.

In some markets basic formula prices in recent months have exceeded the Minnesota-Wisconsin manufacturing milk price. These markets include Dayton-Springfield, Cincinnati, Columbus, Indianapolis, Louisville-Lexington, and Ohio Valley. In the Memphis and Central Arkansas markets, also, this relationship has existed, but a recommended decision has been issued (October 20, 1961; 26 F.R. 9860) which would change the basic formula price to conform to that under the Paducah order. With respect to Dayton-Springfield and other markets of this group (excluding Memphis and Central Arkansas) an adjustment of the Class I price differentials should be made such that substitution of the Minnesota-Wisconsin manufacturing milk price as a basic formula would not have resulted in lower Class I prices in recent months. (These months would include those beginning with August 1961, which was the first month for which the Minnesota-Wisconsin manufacturing milk price was published on current basis, and through December.) For the Dayton-Springfield, Indianapolis, Ohio Valley, Louisville-Lexington and Cincinnati markets this would be accomplished by an upward adjustment of 4 cents per hundredweight in the stated differentials. For the Columbus market this would be accomplished with an upward adjustment of 1 cent per hundredweight.

The suggested adjustment of Class I price differentials based on a comparison of order basic formula prices with the Minnesota - Wisconsin manufacturing milk price in earlier years does not provide a valid basis for transition from current levels of the existing basic formula prices. The suggested comparison does not allow for recognized changes in the industry. The butter-powder formulas contained in these orders do not reflect the increasing efficiency of manufacturing plants. The margin of such butter-powder price formulas over the Minnesota-Wisconsin series during the 1955–61 period has shown a trend towards convergence. During the year 1960 the relationship was reversed and

for several months the Minnesota-Wisconsin manufacturing price was the higher of the two.

No amendment will be required to carry out the conclusions of this decision with respect to eleven of the orders affected. There are no basic formulas included in the orders for the Cedar Rapids-Iowa City, Des Moines, North Central Iowa, Quad Cities-Dubuque, Rockford-Freeport, or North Central Ohio markets. The North Central Ohio Class I price is in fixed relation to that of the Northeastern Ohio order and Class I prices of the other orders named are in fixed relation to the Chicago price. Basic formulas in the St. Louis, Ozarks, Suburban St. Louis, St. Joseph, and Youngstown-Warren orders are not used in the computation of prices for Class I milk, as Class I prices in these markets are also maintained, either directly or indirectly in fixed relationship to other markets for which amendments are herein provided.

Amendments to carry out the conclusions of this decision with respect to this issue and issue number two with respect to orders for the Memphis, Tennessee, and Central Arkansas orders (Parts 1097 and 1108) are being combined with those resulting from decisions relative to issues of other hearings for which recommended decisions were issued October 17, 1961 (26 F.R. 9860) and February 7, 1962 (27 F.R. 1287). Accordingly, no amendments with respect to these orders are attached hereto.

Amendments to carry out the conclusions of this decision with respect to the Ohio Valley and Louisville-Lexington, Kentucky, orders (Parts 1046 and 1095) are in the form of amendments to the "order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area" attached to the decision issued with respect to proposed consolidation of such orders.

Amendment provisions included in the recommended decision with respect to the Milwaukee, Wisconsin, order (Part 1039), and the Northeastern Wisconsin order (Part 1045) represented further modifications of provisions included in recommended decisions issued with respect to issues of prior hearings in these markets, and the omission of an amendment to the Michigan Upper Peninsula order (Part 1044) was in conformity with provisions included in such a recommended decision. It is now unlikely that amendatory action with respect to such proceedings will be completed by the time that action must be taken in these markets with respect to the conclusions of this decision. Accordingly, the amendatory provisions included herein are stated as modifications of presently existing regulations.

Conforming changes are required in a substantial number of the remaining orders to continue without change the pricing provisions for milk classified in classes other than Class I (or Class II under the Chicago order). In a few orders conforming changes have been adopted to avoid duplication of language. For uniformity, the basic formula price has been defined as the manufacturing milk pay price for the current month. All orders in which one month's basic price is now used to compute the Class I price for the succeeding month will continue that practice.

2. Prices under the Central Arkansas and Memphis orders should be stated on a 3.5 percent butterfat basis.

Class prices and producer prices under these orders are presently stated on a four percent butterfat basis. In order that the uniformity of basic formula prices provided herein may be maintained prices in these markets should be stated at the same butterfat content, 3.5 percent, as for other markets involved in this hearing. The Class I price in these orders is presently adjusted from 4.0 percent to other butterfat tests by a butterfat differential identical with that herein proposed for conversion of the Minnesota-Wisconsin pay price from the price reported at test to a 3.5 percent basis.

In order that change in the basic fat test will not affect the level of the Class II price at any given test it is provided that the price presently computed at 4.0 percent butterfat be converted to a 3.5 percent price by use of the Class II butterfat differential of the order. Producer prices under the order should also be announced at a 3.5 percent test to avoid confusion. Cooperative associations will not thereby be prevented from using the 4.0 percent basis in distributing returns to their members producers. The producer price at any given test will remain the same whether computed on a 3.5 percent or a 4.0 percent basis.

Evidence was also received concerning use of a 3.5 percent pricing basis in the orders for the Louisville-Lexington and Ohio Valley marketing areas. Subsequent to this hearing a recommended decision was issued on the basis of evidence received at a public hearing held September 17–21, 1961, in which merger of these orders into a single regulation with prices stated on a 3.5 percent basis was recommended. This record corroborates the findings of that decision with respect to the basic butterfat test to be used.

Rulings on special appearance and on proposed findings and conclusions. In a special appearance entered on behalf of certain handlers in a single market (Cincinnati), objection was raised that the location and duration of the hearing did not afford "reasonable opportunity to be heard" and that the notice of hearing was not sufficiently specific. Such objections are hereby overruled. The location of the hearing was central for the 36 markets at issue. All witnesses who desired to testify were heard. There was no request for extension of time or change in location of the hearing. No evidence was received with respect to changes in those provisions concerning which the objector claimed that additional preparation and testimony would be required.

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

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

(a) The tentative marketing 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, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such respective prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the 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, a marketing agreement upon which a hearing has been held.

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 agreements and orders. Annexed hereto and made a part hereof are forty-four documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Greater Wheeling Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Greater Wheeling Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Clarksburg, W. Va., Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Clarksburg, W. Va., Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the South Bend-La Porte-Elkhart, Indiana, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the

South Bend-La Porte-Elkhart, Indiana, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Greater Cincinnati Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Greater Cincinnati Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Dayton-Springfield, Ohio, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Dayton-Springfield, Ohio, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Columbus, Ohio, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Columbus, Ohio, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Northeastern Ohio Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Northeastern Ohio Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Milwaukee, Wisconsin, Marketing Area", "Order Amending the Order Regulating the Handling in the Milwaukee, Wisconsin, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Southern Michigan Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Southern Michigan Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Muskegon, Michigan, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Muskegon, Michigan, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Upstate Michigan Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Upstate Michigan Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Michigan Upper Peninsula Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Michigan Upper Peninsula Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Northeastern Wisconsin Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Northeastern Wisconsin Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Louisville-Lexington-Evansville Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Louisville-Lexington-Evansville Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Fort Wayne, Indiana, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Fort Wayne, Indiana, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Indianapolis, Indiana, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Indianapolis, Indiana, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Greater Kansas City Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Greater Kansas City Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Duluth-Superior Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Duluth-Superior Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Paducah, Kentucky, Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Paducah, Kentucky, 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 agreements, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreements are identical with those contained in the respective orders as hereby proposed to be amended by the attached orders which will be published with this decision.

Determination of representative period. The month of December 1961 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached orders amending the orders regulating the handling of milk in the Greater Wheeling; Clarksburg, W. Va.; Chicago, Illinois; South Bend-LaPorte-Elkhart, Indiana; Greater Cincinnati; Dayton-Springfield, Ohio; Columbus, Ohio; Northeastern Ohio; Milwaukee, Wisconsin; Southern Michigan; Toledo, Ohio; Muskegon, Michigan; Upstate Michigan; Michigan Upper Peninsula; Northeastern Wisconsin; Louisville-Lexington-Evansville; Fort Wayne, Indiana; Indianapolis, Indiana; Greater Kansas City; Minneapolis-St. Paul, Minnesota; Duluth-Superior; and Paducah, Kentucky, marketing areas, respectively, are approved or favored by producers, as defined under the terms of the respective orders as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid respective marketing areas.

Signed at Washington, D.C., on February 21, 1962.

CHARLES S. MURPHY,
Under Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Greater Wheeling Marketing Area

§ 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 Greater Wheeling 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; and

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

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

1. Delete § 1008.50 and substitute therefor the following:

§ 1008.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1008.51 [Amendment]

2. Delete § 1008.51(b) and substitute therefor the following:

(b) *Class II milk price.* The Class II milk price shall be the highest of the

[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.

prices computed pursuant to subparagraphs (1), (2), and (3) of this paragraph, rounded to the nearest whole cent.

(1) 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 farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Company and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price resulting from the following computation:

(i) Multiply by 6 the simple average as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month for which prices are being computed;

(ii) Add an amount equal to 2.4 times the simple average as published by the Department of Agriculture of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange for the trading days that fall within the month; and

(iii) Divide by 7 and to the resulting amount add 30 percent; and then multiply by 3.5;

(3) The price per hundredweight computed by adding together the plus values of subdivisions (i) and (ii) of this subparagraph:

(i) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 3.5.

(ii) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.2.

Order[1] *Amending the Order Regulating the Handling of Milk in the Clarksburg, W. Va., Marketing Area*

§ 1009.0 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 Clarksburg, W. Va., 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; and

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

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

1. Delete § 1009.50 and substitute therefor the following:

§ 1009.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1009.51 [Amendment]

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

(b) *Class II milk price.* The Class II milk price shall be the highest of the prices computed pursuant to subparagraphs (1), (2), and (3) of this paragraph, rounded to the nearest whole cent.

(1) 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 farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Company and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price resulting from the following computation:

(i) Multiply by 6 the simple average as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month for which prices are being computed;

(ii) Add an amount equal to 2.4 times the simple average as published by the Department of Agriculture of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange, for the trading days that fall within the month; and

(iii) Divide by 7 and to the resulting amount add 30 percent; and then multiply by 3.5.

(3) The price per hundredweight computed by adding together the plus values of subdivisions (i) and (ii) of this subparagraph:

(i) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 3.5; and

(ii) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.2.

Order[1] *Amending the Order Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area*

§ 1030.0 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

[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.

certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago, Illinois, 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; and

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

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

1. Delete § 1030.50 and substitute therefor the following:

§ 1030.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1030.82. The basic formula price shall be rounded to the nearest full cent.

§ 1030.52 [Amendment]

2. In § 1030.52 (a) and (b) change the phrase "the basic formula price plus" to "the basic formula price for the preceding delivery period plus".

3. Replace § 1030.52(c) with the following:

(c) *Class III milk.* The price per hundredweight for Class III milk shall be the basic formula price.

Order[1] Amending the Order Regulating the Handling of Milk in the South Bend-La Porte-Elkhart, Indiana, Marketing Area

§ 1031.0 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 South Bend-La Porte-Elkhart, Indiana, 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; and

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

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

1. Delete § 1031.51 and substitute therefor the following:

§ 1031.51 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1031.53 [Amendment]

2. In § 1031.53 immediately after the words "basic formula price" insert "for the preceding month".

§ 1031.54 [Amendment]

3. Delete § 1031.54(a) and substitute therefor the following:

(a) The average of the basic or field prices reported to have been paid, or to be paid, per hundredweight for milk of 3.5 percent butterfat content received, from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

§ 1031.55 [Amendment]

4. In § 1031.55 change "§ 1031.51(a)" to "§ 1031.54(a)."

Order[1] Amending the Order Regulating the Handling of Milk in the Greater Cincinnati Marketing Area

§ 1033.0 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 Greater Cincinnati 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 suf-

[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.

ficient quantity of pure and wholesome milk, and be in the public interest; and

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

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

1. Delete § 1033.50 and substitute therefor the following:

§ 1033.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1033.51 [Amendment]

2. In § 1033.51(a) change "$1.30" to "$1.34".

3. Delete § 1033.51(b)(2) and substitute therefor the following:

(2) From the average of carlot prices per pound for nonfat dry milk, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th of the immediately preceding month through the 25th day of the current month by the United States Department of Agriculture, deduct 5.5 cents and multiply the result by 8.2.

4. Delete § 1033.52(c) and substitute therefor the following:

(c) *Class III milk.* (1) Multiply the Chicago butter price less 5.0 cents by 120;

(2) Subtract the amount computed by deducting 6.4 cents from the average price for nonfat dry milk, spray process, described in § 1033.51(b)(2) and multiply the result by 8.2; and

(3) Divide the result by 1000: *Provided,* That for each of the months of September through February, the butterfat differential for Class III milk other that that used to produce butter shall be the same as the butterfat differential for Class II milk for such month.

Order[1] Amending the Order Regulating the Handling of Milk in the Dayton-Springfield, Ohio Marketing Area

§ 1034.0 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 Dayton-Springfield, Ohio, 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; and

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

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

1. Delete § 1034.50 and substitute therefor the following:

§ 1034.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1034.51 [Amendment]

2. In § 1034.51(a) change "$1.20" to "$1.24".

Order[1] Amending the Order Regulating the Handling of Milk in the Columbus, Ohio, Marketing Area

§ 1035.0 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 Columbus, Ohio, 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; and

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

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

1. Delete § 1035.50 and substitute therefor the following:

§ 1035.50 Basic formula prices.

(a) The basic formula price for Class I milk shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times

[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.

the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

(b) The basic formula price for Class II and Class III milk shall be the higher of the prices as computed to the nearest one-tenth of a cent by the market administrator pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The arithmetical 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 farmers during the month at the following places for which prices are reported to the market administrator or to the Department by the companies listed below:

Company and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed by adding together the plus amounts calculated pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the Chicago butter price, subtract 3.5 cents, and multiply the difference by 4.2; and

(ii) From the nonfat dry milk price, subtract 4 cents and multiply the difference by 8.2.

§ 1035.51 [Amendment]

2. In § 1035.51(a) change the phrase "basic formula price for the preceding month, plus $1.10" to "basic formula price computed pursuant to § 1035.50(a) for the preceding month, plus $1.11".

3. In § 1035.51 (b) and (c) change the phrase "basic formula price" to "basic formula price determined pursuant to § 1035.50(b)".

4. In § 1035.51(d) change the reference "§ 1035.50(b) (1) and (2)" to "§ 1035.50 (b)(2) (i) and (ii)".

Order[1] Amending the Order Regulating the Handling of Milk in the Northeastern Ohio Marketing Area

§ 1036.0 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 Northeastern Ohio 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; and

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

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

1. Delete § 1036.50 and substitute therefor the following:

§ 1036.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

2. Delete § 1036.52 and § 1036.53 and substitute therefor the following:

§ 1036.52 Class II milk prices.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for producer milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month, which is classified as Class II utilization, shall be the higher of the prices per hundredweight of milk of 3.5 percent butterfat content computed by the market administrator pursuant to paragraphs (a) and (b) of this section, plus 30 cents.

(a) The average of the basic (or field) prices ascertained to have been paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator by the Department of Agriculture or by the companies indicated below:

Company and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

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

(1) From the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter for the month as reported by the Department of Agriculture for the Chicago market, subtract 3 cents, add 20 percent of the resulting amount and then multiply by 3.5; and

(2) From the simple average of the weighted averages of the carlot prices per pound of spray and roller process nonfat dry milk solids for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

§ 1036.53 Class III milk prices.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for producer milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month, which is classified as Class III utilization, shall be the basic formula price, as computed pursuant to § 1036.50, but in no event shall the Class III price exceed the price computed pursuant to § 1036.52(b) plus 10 cents.

Order[1] Amending the Order Regulating the handling of Milk in the Milwaukee, Wisconsin, Marketing Area

§ 1039.0 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

[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.

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 Milwaukee, Wisconsin, 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; and

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

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

1. Delete § 1039.50 and substitute therefor the following:

§ 1039.50 Basic formula price.

The basic formula price shall be the average price for hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1039.81 and rounded to the nearest full cent.

2. In § 1039.51 (a) and (b) change the phrase "basic formula price" to "basic formula price for the preceding month".

3. Delete § 1039.51(c) and substitute therefor the following:

(c) *Class III milk.* The price for Class III milk shall be the average of the prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the U.S.D.A. or to the market administrator.

Present Operator and Location
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Co., Manitowoc, Wis.
White House Co., West Bend, Wis.

Provided, That when the price for Class IV milk for the month is higher than the price computed pursuant to this paragraph, the price for Class III(a) milk shall be the latter price and the price for all other Class III milk shall be the price for Class IV milk.

4. Delete § 1039.51(d) and substitute therefor the following:

(d) *Class IV milk.* The price for Class IV milk shall be the price per hundredweight computed from the following formula:

(1) Multiply by 4.24 the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) for Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the U.S.D.A. during the month: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the Grade A (92-score) butter prices for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk solids, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the U.S.D.A.; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents.

Order[1] Amending the Order Regulating the Handling of Milk in the Southern Michigan Marketing Area

§ 1040.0 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 Southern Michigan 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; and

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

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

1. Delete § 1040.50 and substitute therefor the following:

§ 1040.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

2. Delete § 1040.52 and substitute therefor the following:

§ 1040.52 Class II milk price.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month which is classified as Class II utilization shall be as follows:

(a) In the months of February through September the higher of:

(1) The average of the prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants, except any which meet the qualification of § 1040.16, for which prices have been reported to the market administrator:

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

Present Operator and Location

Borden Co., Mt. Pleasant, Mich.
Carnation Co., Sheridan, Mich.
Carnation Co., Sparta, Mich.
Fairmont Foods Co., Bad Axe, Mich.
Kraft Foods, Clare, Mich.
Kraft Foods, Pinconning, Mich.
Nestle Co., Ubly, Mich.

or

(2) The price per hundredweight computed by subtracting 18.3 cents from the sum of the plus amounts computed pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter for the month as reported by the Department of Agriculture for the Chicago market, subtract three cents, add 20 percent of the resulting amount and then multiply by 3.5; and

(ii) From the simple average of the weighted averages of the carlot prices per pound of spray and roller process nonfat dry milk solids for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, deduct 5.5 cents, multiply by 8.2; and

(b) In the months of October, November, December and January, add 20 cents per hundredweight to the price determined pursuant to paragraph (a) of this section.

Order[1] Amending the Order Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area

§ 1041.0 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 Toledo, Ohio, 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; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Toledo, Ohio, 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:

§ 1041.50 [Amendment]

1. Delete § 1041.50(b) and substitute therefor the following:

(b) *Class II milk price.* The Class II milk price shall be the highest of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to subparagraphs (1) and (2) of this section.

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

Companies and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the Chicago butter price subtract three cents, and multiply by 4.2; and

(ii) From the arithmetical average of the carlot prices per pound for nonfat dry milk (not including that specifically designated animal feed), spray and roller process, f.o.b. manufacturing plants in the Chicago area, as published by the Department during the month, deduct 5.5 cents, and multiply by 8.2, except that if such agency does not publish such prices f.o.b. manufacturing plants, there shall be used for the purpose of this computation the arithmetical average of the carlot prices thereof delivered to Chicago, Illinois, as published weekly by such agency during the month; and in the latter event the figure "7.5" shall be substituted for "5.5" in the above formula.

2. Delete § 1041.51 and substitute therefor the following:

§ 1041.51 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

Order[1] Amending the Order Regulating the Handling of Milk in the Muskegon, Michigan, Marketing Area

§ 1042.0 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 Muskegon, Michigan, 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; and

(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.

[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.

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

1. Delete § 1042.50 and substitute therefor the following:

§ 1042.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

Order[1] Amending the Order Regulating the Handling of Milk in the Upstate Michigan Marketing Area

§ 1043.0 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 Upstate Michigan 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; and

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

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

1. Delete § 1043.50 and substitute therefor the following:

§ 1043.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1043.51 [Amendment]

2. Delete § 1043.51 (b) and (c), and substitute therefor the following:

(b) *Class II milk.* The Class II milk price shall be the highest of the prices computed pursuant to subparagraphs (1), (2), and (3) of this section.

(1) 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 farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the USDA:

Present Operator and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed by adding together the plus values computed pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the USDA during the month; subtract 3 cents, add 20 percent thereof and multiply by 3.5.

(ii) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in 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 U.S.D.A., deduct 5.5 cents and then multiply by 8.2.

(3) The average of the basic or field prices per hundredweight reported to have been paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants:

Kraft Foods Co., Cadillac, Mich.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Kraft Foods Co., Clare, Mich.

(c) *Class III milk.* The Class III milk price shall be the Class II milk price less 20 cents.

§ 1043.62 [Amendment]

3. In § 1043.62 change "§ 1043.50(b)(1)" to "§ 1043.51(b)(2)(i)".

Order[1] Amending the Order Regulating the Handling of Milk in the Michigan Upper Peninsula Marketing Area

§ 1044.0 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 Michigan Upper Peninsula 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

[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.

wholesome milk, and be in the public interest; and

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

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

1. Delete § 1044.50 and substitute therefor the following:

§ 1044.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

2. Delete § 1044.52 and substitute the following:

§ 1044.52 Class II milk price.

Subject to the provisons of § 1044.54, the minimum price to be paid by each handler for milk received at his fluid milk plant from producers or from the fluid milk plant of a cooperative association, during the month and utilized as Class II milk shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section:

(a) 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 farmers during the month at the following plants or places for which prices have been reported to the USDA:

Present Operator and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed from the following formula:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the USDA, 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 weighted average of carlot prices per pound for spray 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 delivery period through the 25th day of the current delivery period, by the USDA; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents and adjust to the nearest full cent.

3. In § 1044.53 delete "§ 1044.50(b)" and substitute therefor "§ 1044.52(b)".

Order[1] Amending the Order Regulating the Handling of Milk in the Northeastern Wisconsin Marketing Area

§ 1045.0 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 Northeastern Wisconsin 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; and

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

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

1. Delete § 1045.50 and substitute therefor the following:

§ 1045.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

2. Delete § 1045.52 and substitute therefor the following:

§ 1045.52 Class II milk price.

Subject to the provisions of § 1045.54 the minimum price per hundredweight to be paid by each handler for milk received at his pool plant from producers or the pool plant of a cooperative association during the month and utilized as Class II milk shall be the higher of the prices computed as follows:

(a) 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 farmers during the month at the following plants or places for which prices have been reported to the USDA:

Present Operator and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price computed from the following formula:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the USDA, 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 weighted average of carlot prices per pound for spray process nonfat dry milk, for human con-

[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.

sumption, 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 USDA; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents and adjust to the nearest cent.

3. In § 1045.53 delete "§ 1045.50(b)" and substitute therefor "§ 1045.52(b)".

Order[1] *Amending the Order Regulating the Handling of Milk in the Louisville-Lexington-Evansville Marketing Area*

§ 1046.0 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 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 orders regulating the handling of milk in the Louisville-Lexington, Kentucky and Ohio Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Louisville-Lexington-Evansville marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as attached to the decision of the Under Secretary of Agriculture issued February 15, 1962, and as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 1046.50 and substitute therefor the following:

§ 1046.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1046.51 [Amendment]

2. In § 1046.51(a), in the language preceding subparagraph (1), delete "$1.25" and substitute "$1.29".

Order[1] *Amending the Order Regulating the Handling of Milk in the Fort Wayne, Indiana, Marketing Area*

§ 1047.0 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 Fort Wayne, Indiana, 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; and

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

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

1. Delete § 1047.50 and substitute therefor the following:

§ 1047.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1047.51 [Amendment]

2. Replace § 1047.51(b) with the following:

(b) *Class II milk price.* The price for Class II milk of 3.5 percent butterfat content shall be the higher of the prices per hundredweight of milk of 3.5 percent butterfat content computed by the market administrator pursuant to subparagraphs (1) and (2) of this paragraph rounded to the nearest cent:

(1) The average of the basic (or field) prices ascertained to have been paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator by the Department or by the companies indicated as follows:

Present Operator and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed by adding together the plus amounts pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the Chicago butter price, subtract three cents, and then multiply by 4.2; and

(ii) From the simple average of the weighted averages of the carlot prices per pound of spray and roller process nonfat dry milk solids for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the

[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.

Department, deduct 5.5 cents and multiply by 8.2.

Order[1] Amending the Order Regulating the Handling of Milk in the Indianapolis, Indiana, Marketing Area

§ 1049.0 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 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 Indianapolis, Indiana, 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; and

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

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

1. Delete § 1049.50 and substitute therefor the following:

§ 1049.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1049.51 [Amendment]

2. Delete § 1049.51(a) and substitute therefor the following:

(a) *Class I milk price.* The price for Class I milk shall be the basic formula price for the preceding month, plus $1.29.

3. Delete § 1049.51(b) and substitute therefor the following:

(b) *Class II milk price.* The price for Class II milk shall be the higher of the prices, rounded to the nearest cent, computed as follows:

(1) The average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The sum of the amounts computed pursuant to subdivision (i) and (ii) of this subparagraph.

(i) Multiply the butter price by 4.2.

(ii) From the arithmetical averages of the weighted average of carlot prices per pound of 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 preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.2.

Order[1] Amending the Order Regulating the Handling of Milk in the Greater Kansas City Marketing Area

§ 1064.0 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 Greater Kansas City 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; and

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

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

1. Delete § 1064.50 and substitute therefor the following:

§ 1064.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1064.52 [Amendment]

2. In § 1064.52 (a) and (b), and in § 1064.82, delete "§ 1064.50(b)(1)" and substitute therefor "§ 1064.50".

Order[1] Amending the Order Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area

§ 1068.0 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

[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.

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 Minneapolis-St. Paul, Minnesota, 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; and

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

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

1. Delete § 1068.51 and substitute therefor the following:

§ 1068.51 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1068.53 [Amendment]

2. In § 1068.53 change the phrase "basic formula price" to "basic formula price for the preceding month".

3. Delete § 1068.54 and substitute therefor the following:

§ 1068.54 Class II price.

The price per hundredweight for Class II milk shall be the basic formula price.

Order[1] Amending the Order Regulating the Handling of Milk in the Duluth-Superior Marketing Area

§ 1069.0 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 Duluth-Superior 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; and

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

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

1. Delete § 1069.50 and substitute therefor the following:

[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.

§ 1069.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1069.51 [Amendment]

2. Replace § 1069.51(b) with the following:

(b) *Class II milk.* The Class II price per hundredweight of milk of 3.5 percent butterfat content shall be determined each month as follows:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department, during the delivery period: *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 weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents and adjust to the nearest full cent.

Order[1] Amending the Order Regulating the Handling of Milk in the Paducah, Kentucky, Marketing Area

§ 1099.0 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 Paducah, Kentucky, 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; and

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

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

1. Delete § 1099.50 and substitute therefor the following:

§ 1099.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1099.51 [Amendment]

2. Delete § 1099.51(b) and substitute therefor the following:

(b) *Class II milk price.* The highest of the prices computed pursuant to subparagraphs (1), (2), and (3) of this paragraph shall be the Class II price during the months of August through March, and such price shall be reduced ten cents during the months of April through July: *Provided,* That in no case shall such price be less than the price determined in subparagraph (3) of this paragraph.

(1) 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 farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The sum of the amounts determined pursuant to subdivision (i) and (ii) of this subparagraph less 75 cents.

(i) Multiply by 4.24 the simple average, as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of 93 score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture, during the month: *Provided,* That if no price is reported for 93 score butter, the highest of the prices reported for 92 score butter for the day shall be used in lieu of the price for 93 score butter.

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture.

(3) Or the price shall be the average of the basic (or field) prices reported to or ascertained by the market administrator to have been paid, or to be paid, without deductions for hauling or other charges to be paid by the farm shipper, for milk of 4.0 percent butterfat content received during the month by the Pet Milk Company at its manufacturing plant located at Mayfield, Kentucky, less 5 times the butterfat differential calculated pursuant to § 1099.52(b).

[F.R. Doc. 62-1942; Filed, Feb. 26, 1962; 8:50 a.m.]

[7 CFR Part 1097]

[Docket No. AO-219-A9-A10]

MILK IN MEMPHIS, TENN., MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), public hearings were held at Memphis, Tennessee, and Little Rock, Arkansas, on July 18-20, 1961, pursuant to notice thereof issued on June 23, 1961 (26 F.R. 5803), and at Chicago, Illinois, on January 17-19, 1962, pursuant to notice thereof which was issued January 8, 1962 (27 F.R. 314).

Upon the basis of the evidence introduced at the July hearing and the record thereof, the Assistant Secretary of Agriculture, on October 17, 1961 (26 F.R. 9860; F.R. Doc. 61-10032) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. On February 7, 1962, the Assistant Secretary filed with the Hearing Clerk his recommended decision containing notice of opportunity to file written exceptions thereto with respect to the issues heard and the evidence introduced at the Chicago, Illinois hearing, January 17-19, 1962 (27 F.R. 1272; F.R. Doc. 62-1406).

The material issues on the records of the hearings relate to:

1. Class I price;
2. Basic butterfat test;
3. Handler location differentials;
4. Plants subject to another order; and
5. Class I price for milk distributed in another marketing area.

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

1. *Class I price.* The Class I price should be revised to (1) change the basic formula price, (2) provide some seasonal adjustment to the Class I price differential, and (3) revise application of the supply-demand adjuster.

The present Class I price is determined by adding to the basic formula price for the preceding month a Class I differential of $1.74. Such price is further adjusted by a supply-demand adjustor. The basic formula price is the highest of the following alternative price formulas: (1) The Midwest condensery prices, (2) a butter-powder formula, and (3) a butter-cheese formula.

The handlers regulated by the order proposed that the Memphis Class I price be closely aligned to the Paducah, Kentucky, Class I price. It was proposed that the Memphis Class I price be 14 cents over the Paducah Class I price at 4.0 percent butterfat content. They contended that a Paducah handler had a substantial increase in his sales within the marketing area during the past 18 months because of the disparity between the Paducah and Memphis Class I prices. The producer associations supplying the market proposed that no changes be made in the present Class I pricing structure.

The supply of producer milk presently is adequate in relation to the Class I disposition. During the past 30 months producer receipts ranged from a high of 129 percent to a low of 105 percent of Class I disposition. For the years 1959 and 1960 the relationship of producer receipts to Class I sales averaged 111.8 and 112.6 percent, respectively. For the most recent 12-month period of July 1960 to June 1961, it averaged 110.9 percent. When the receipts and Class I sales which the cooperative association marketed outside the order are added to

the producer receipts and Class I sales, the average relationship of receipts to Class I sales was 117.6 percent in 1959, 117.8 percent in 1960 and 115.5 percent in the most recent 12-month period.

Producer milk used in Class I has increased proportionately to increased total deliveries of producers largely because handlers have increased sales made outside the Memphis marketing area. Out-of-area sales rose 18 percent from 1959 to 1960 compared to a 5 percent increase in in-area sales. During the first six months of 1961 out-of-area sales rose 31 percent compared to a 3 percent increase in in-area sales.

Despite the relatively constant ratio of producer milk to Class I sales in recent years producers supplying the Memphis market have lost sales through the increased sales within the Memphis marketing area by handlers from other markets. Class I disposition in the Memphis marketing area by handlers regulated under other Federal orders increased 27 percent from 1959 to 1960 and another 15 percent during the first six months of 1961. The sales for the most part were made by handlers regulated under the Central Arkansas and Paducah orders. Lower returns to Memphis producers would result from this continuing loss of Class I sales. This situation should be rectified by price alignment with nearby markets.

The Class I prices in Memphis and Little Rock have been identical during this period but the Memphis Class I price has exceeded the Paducah price for milk of the same butterfat content by more than the cost of transporting milk from Paducah to Memphis. The difference in price has been accentuated in 1960 and 1961 because the basic formulas used in computing the Class I prices in the two markets differ.

The disparity between Memphis Class I prices and prices in Paducah, St. Louis and Suburban St. Louis (alternative milk supply areas for the Memphis market) which has resulted from the varying basic formulas used in these markets, if allowed to continue, could result in a significant reduction in Class I sales in Memphis for Memphis producers. This price disparity in the long run would tend to reduce returns to Memphis producers.

The issue of an appropriate basic formula for determining Class I prices in Memphis, Tennessee, and 35 other central United States markets was the subject of a hearing held at Chicago, Illinois, January 17–19, 1962. On the basis of that hearing record a recommended decision that the basic formula to be used in these markets should be the monthly average price (adjusted to 3.5 percent butterfat) received by farmers for manufacturing grade milk in Minnesota and Wisconsin as published by the Department on about the 5th day following the month was issued February 7, 1962 (27 F.R. 1272; F.R. Doc. 62–1406). The material issues, findings and conclusions, rulings, and general findings of the final decision in that proceeding issued concurrently herewith, insofar as they pertain to the basic formula to be used in the Memphis, Tennessee, Federal milk order, are hereby approved and adopted as if set forth in full herein.

In view of the present relationship of producer receipts to Class I sales and the increase in Class I sales by Memphis handlers, the level of the Class I differential should not be reduced.

However, the Class I differential should be adjusted seasonally to reduce seasonal differences in the Memphis Class I price compared to markets to the north from which milk is available to the Memphis market. The Class I differential in the Paducah, Kentucky, order is $1.50 during the months of August through February, $1.20 in March and July and $0.90 in April, May and June. The Class I prices in St. Louis and Suburban St. Louis are tied directly or indirectly to the Chicago, Illinois, Class I price. The St. Louis Class I price is 50 cents more than the Chicago Class I price while the Suburban St. Louis Class I price is 10 cents less than the St. Louis price and the Ozarks price varies seasonally from 20 to 27 cents less than the St. Louis Class I price. The Chicago Class I differential is 70 cents in March through June, 90 cents in July and December through February, and $1.10 in August through November.

The Class I differential in the Memphis order should be changed to $1.84 in August through February and $1.60 in March through July. Although the annual average of these Class I differentials will remain at $1.74, the prices will be somewhat more closely aligned with the pattern of prices in these other markets.

Changes in the production and Class I sales of milk for the market should be reflected in the current supply-demand computations. The present supply-demand adjustor must have a deviation from the base utilization range in the same direction for three consecutive months before any monetary adjustment is made in the Class I price. This limitation should be deleted so that any increase or decrease in receipts or sales may be reflected immediately. However, the adjustment should be limited to six cents in any given month more or less than the adjustment for the previous month. This would allow the supply-demand mover to move only two percentage points per month outside the base utilization range. This curb on the adjustment will eliminate any erratic movement yet will reflect the trend of the supply-sales relationship. Such a provision would have been effective only during the months of July, August and September 1960, in which it would have reduced the Class I price 6, 12, and 6 cents, respectively.

2. *Basic butterfat test.* Prices should be computed and announced for milk of 3.5 percent basic butterfat content.

Class prices and uniform prices to producers are presently stated on a four percent butterfat basis. In order to accomplish the uniformity of basic formulas found to be necessary and desirable, prices for all markets within a region should be stated at the same butterfat content. In order that all prices are announced on a comparable basis, Class II prices and uniform prices to producers, as well as Class I prices should be computed and reported for milk of 3.5 percent butterfat content.

3. *Location differentials.* No change should be made in the location differential provisions.

The cooperative association proposed that the location differential credit to handlers be limited to 20 cents per hundredweight. Handlers proposed the elimination of the location differential at Jackson, Tennessee.

The proposal by the cooperative association would inhibit the movement of milk into the market from distant points when the milk might actually be needed in the market. The location differentials are designed to reflect the cost of moving milk to the market regardless of the distance. The Memphis market at times has had to import milk from other markets to the north. Such a proposal would arbitrarily establish a price for milk at distant plants greater than the Memphis price adjusted by transportation costs. Therefore, the proposed amendment is denied.

The proposal by the handlers to eliminate the location differential at Jackson, Tennessee, should also be denied. The present location differential at Jackson, Tennessee, is 13.5 cents per hundredweight. The rate of 13.5 cents per hundredweight reflects experience relative to the additional cost of moving milk to Memphis area plants rather than to Jackson, Tennessee, plants from farms located in and around Jackson.

4. *Milk subject to pricing under other Federal orders.* The proposal to change the current Memphis, Tennessee, order language with respect to plants subject to another order is denied. Under the present provision, a plant that has sales in the Memphis marketing area and in the marketing area of another Federal order will not become a handler regulated under the Memphis order unless a volume of Class I milk was disposed of from such plant during the six-month period immediately preceding to retail and wholesale outlets (except fluid milk plants) in the Memphis, Tennessee, marketing area greater than the volume disposed of in the marketing area regulated pursuant to such other order. The Mid-South Milk Producers Association advocated the deletion of the words "during the six-month period immediately preceding" thus putting the pool status of a handler of another market selling in the Memphis marketing area on a month-to-month basis.

The present order language was designed to prevent a shift back and forth between the Central Arkansas and Memphis orders on a month-to-month basis. A pool plant shifting between order regulations creates uncertainty and undue hardships for the producers concerned.

The proposal to use only the current month performance was designed to regulate the Paducah handler under the Memphis order if, in a single month, his sales in the Memphis area exceeded those in the Paducah area. Such a change in regulation would relieve the handler from regulation under the Paducah order which operates on a market-wide pool and make him subject to the Memphis regulation which is an individual handler pool. Since the Mem-

phis market operates on an individual handler pool basis the blend prices received by producers who regularly supply the Memphis market would not be affected by such a shift in regulation. The shift would affect the blend prices received by producers in the Paducah market. Therefore, the shift in regulation from one market to the other should be made only when it is established that a handler has maintained greater sales in the Memphis marketing area for a six-month period.

5. *Class I price for milk distributed in another marketing area.* A proposed amendment by the cooperative association to add a new section to the Memphis, Tennessee, order whereby the price of Class I milk distributed in another Federal order marketing area be the higher of the Memphis Class I price or the price determined pursuant to the other Federal order is denied.

The Class I prices in each Federal order market are established at levels which will obtain an adequate supply of milk for the respective market. These prices reflect prices of alternative supplies of milk and local supply and demand conditions. The prices are established at the plant where such milk is received from producers. Even though some of the milk received for the Memphis market is actually disposed of in another Federal order marketing area its value remains the same as if it were disposed of in Memphis. Therefore, the Memphis Class I price should apply to all Class I milk received from producers regardless of the area in which it is sold.

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

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

(a) The tentative marketing 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 area, 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 tentative marketing agreements and the 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, a marketing agreement upon which a hearing has been held.

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 Memphis, Tennessee Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Memphis, Tennessee 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 November 1961 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 Memphis, Tennessee, 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.

Signed at Washington, D.C., on February 21, 1962.

CHARLES S. MURPHY,
Under Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Memphis, Tennessee, Marketing Area

§ 1097.0 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), public hearings were held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Memphis, Tennessee, marketing area. Upon the basis of the evidence introduced at such hearings and the records 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; and

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

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

1. Delete § 1097.50 and substitute therefor the following:

§ 1097.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. Delete § 1097.51(a) (1) and (2) and substitute therefor the following:

(1) Add $1.60 in each of the months of March through July and $1.84 in all other months.

[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.

(2) Add if the net utilization percentage calculated pursuant to subparagraph (3) of this paragraph is less than, or subtract if it is more than the base utilization range, an amount determined by multiplying such net utilization percentage by three cents: *Provided*, That the amount added or subtracted shall not vary more than six cents from the amount added or subtracted during the immediately preceding month.

3. In § 1097.51(b) delete the period at the end of the paragraph and add: "and from which shall be subtracted 5 times the butterfat differential for the respective month computed pursuant to § 1097.52(b)".

4. In §§ 1097.52, 1097.71, and 1097.92, delete "4.0" wherever it appears and substitute therefor "3.5".

[F.R. Doc. 62-1943; Filed, Feb. 26, 1962; 8:51 a.m.]

[9 CFR Part 301]

[Docket Nos. AO-336 and AO-337]

TURKEYS AND TURKEY HATCHING EGGS

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

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, United States Department of Agriculture, a recommended decision with respect to a proposed marketing agreement and order regulating the handling of turkeys produced in all States of the United States except Alaska and Hawaii, to become effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.) hereinafter called the "Act."

Interested persons may file exceptions to this recommended decision with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., not later than the close of business on the 15th day after publication of this recommended decision in the FEDERAL REGISTER. Six copies of exceptions should be filed.

Preliminary statement. A public hearing on the record of which the proposed marketing order is formulated was held at the several locations and on the days enumerated below, pursuant to notice thereof which was published in the FEDERAL REGISTER on November 2, 1961 (26 F.R. 10286), the supplemental notice of the hearing published in the FEDERAL REGISTER on November 8, 1961 (26 F.R. 10516), the second supplemental notice of hearing published in the FEDERAL REGISTER on November 17, 1961 (26 F.R. 10772), the notice reopening the hearing published in the FEDERAL REGISTER on January 18, 1962 (27 F.R. 518), and the notice amending the notice of reopening published January 27, 1962 (27 F.R. 834). The public hearing was held at Richmond, Virginia, November 20 to 22; Des Moines, Iowa, November 24, 25, 26, 27; Las Vegas, Nevada, November 29, 30, and December 1; Oklahoma City, Oklahoma, December 4, 5, and 6; Chicago, Illinois, December 8 and 9; Albany, New York, December 12 and 13, 1961, and Kansas City, Missouri, January 29 through February 1, 1962. Such notices set forth proposed marketing agreements and orders relating to the provisions of a proposed marketing agreement and order regulating the handling of turkey hatching eggs and a proposed marketing agreement and order regulating the handling of turkeys under the terms of the Agricultural Marketing Act of 1937, as amended. The National Turkey Federation, and the National Turkey Advisory Committee, after several meetings, had proposed that a public hearing be held upon such proposed marketing agreements and orders.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act and whether such purposes would be effectuated by a Turkey or Turkey Hatching Egg program or both;

(3) The definitions of the commodity and determination of the production area to be affected by the marketing agreement and order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the proposed marketing agreement and order including:

(a) Definitions of terms used therein which are necessary and incidental to attain the declared objectives of the act, among which are those applicable to the provisions of the proposed program;

(b) The establishment, maintenance, composition, powers, duties, term of office, and operation of a turkey advisory board;

(c) The establishment, maintenance, composition, powers, duties, and operation of a turkey administrative committee, which shall be the administrative agency for assisting the Secretary in administration of the turkey marketing program;

(d) The selection of the membership of the board and committee;

(e) The authority for the committees to incur expenses and to levy assessments on handlers of turkeys;

(f) The need for establishment of marketing research and development programs for turkeys;

(g) The authority of the board and committee to recommend marketing policy and regulations implementing such policy;

(h) The methods for limiting of the quantities of turkeys which may be handled;

(i) The application of the provisions to persons under the order and exemptions of certain such persons;

(j) The procedure for establishing reporting requirements applicable to handlers and the requirements for recordkeeping;

(k) The requirements of compliance with all provisons of the marketing agreement and order and with regulations issued thereto;

(l) Additional terms and conditions as set forth in sections E 70 through E 80 and T 75 through T 85 and published in the FEDERAL REGISTER on November 2, 1961 (26 F.R. 10286) and further set forth in §§ 301.80 through 301.101 published in the FEDERAL REGISTER on January 18, 1962 (27 F.R. 518), which are common to marketing agreements and orders.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) Turkey hatching eggs are marketing extensively in interstate commerce. Turkey hatching eggs produced in the State of California, for example, are marketed in almost half of the states of the United States as well as in foreign commerce. Hatching eggs produced in Texas experience similar marketings though perhaps not quite as extensive. California and Texas are two of the major hatching egg production states accounting for approximately one-third of the U.S. production. Almost all States produce some hatching eggs of which varying proportions move in interstate commerce and hatching eggs produced and marketed within the same State are disposed of in direct competition with eggs coming from other States and the prices received for such locally produced eggs are often determined by the price and availability of such out-of-State eggs. The average price received by producers for hatching eggs in December 1961 was 74 percent of the parity price.

From the evidence presented for the record it is concluded that all marketings of turkey hatching eggs are in the current of interstate or foreign commerce or directly burdens, obstructs, or effects such commerce and that there exists the right or power to exercise Federal jurisdiction over a regulatory program for turkey hatching eggs. Further analysis of the record reveals, however, that there was considerable apprehension among producers concerning the provisions of a regulatory program for hatching eggs. The prime concern, although there were others, appeared to be that such a program might have the effect of restricting the supply of eggs, and the poults resulting therefrom, with the result that a condition may be created which could result in inequities turkey producers. In view of this substantial concern the Department is continuing an exhaustive analysis of the evidence of record and the complex administrative problems raised by witnesses concerning a hatching egg order and a recommended decision thereon will be issued at a later date. Accordingly, the recommended decision and proposed order herein will relate to turkeys only.

Turkeys are an important agricultural product which are produced and mar-

keted in all States of the United States. More than $375 million are received annually by U.S. turkey producers from sales of turkeys. Consumption of turkey meat in the United States is estimated at 7.4 pounds per capita in 1961, indicating an increase over the 6.3 pounds in 1960, and 4.4 pounds per capita in 1951, only a decade ago.

Turkeys are produced and marketed each month of the year. They are processed for marketing in three forms. frozen, fresh chilled but not frozen, and as turkey products and parts, such as legs, wings, breasts, canned turkey, turkey rolls, etc. In relation to the frozen and fresh marketings, the marketings of turkey products and parts is relatively minor. The marketing of frozen turkeys far exceeds the fresh. In 1960, 79 percent of all turkeys produced were slaughtered in plants operating under the Federal inspection program and 84 percent of the turkeys processed in such plants were marketed in frozen form. It follows that approximately two-thirds of all processed turkeys are marketed in the frozen state.

The appearance and quality of the frozen bird is similar to that of the fresh unfrozen bird and frozen turkeys compete directly with the fresh commodity for the preference of the consumer. Because unfrozen birds are highly perishable they are generally locally marketed on the wholesale or retail level (often directly by the producer himself) or marketed within a few hundred miles of where they are produced. The evidence of record indicates that fresh unfrozen turkeys move in interstate commerce, as for example, into New York and New England from Virginia, Maryland, Ohio, and Pennsylvania. Frozen birds on the other hand, can maintain their appearance and quality for a considerable period of time, sometimes in excess of a year, without appreciable deterioration. Shippers of frozen turkeys, therefore, have the ability to move such turkeys great distances in interstate and foreign commerce from the areas where they are produced to markets throughout the country. The exportations of frozen turkeys, although still relatively small, have been increasing. The interstate movement of turkeys is dramatically illustrated by market reports indicating the origin of turkeys received in major terminal markets. Turkeys for the New York market in 1960, for example, originated in thirty-four States. The Chicago market received turkeys from thirty States during the same year, and even the Los Angeles market, located in a State which produces a substantial surplus, received turkeys from four other States in that year.

Turkeys are shipped to, sold in, and distributed in all important markets in the U.S. and they are an established commodity in those markets. There is also futures trading in turkeys on the Chicago Mercantile Exchange.

Communications between buyers and sellers, both in terminal markets and at shipping points, are modern and rapid so that the effect of immediate and future supplies are quickly reflected in the price of turkeys in such markets. Shippers follow terminal markets closely and buy from or settle with producers on the basis of market prices reflecting terminal market conditions.

The price and availability of turkeys produced and marketed intrastate have a direct effect on the marketing of all turkeys wherever produced, and the price and availability of turkeys being marketed from other sources of supply have a direct effect upon the marketing conditions of intrastate turkeys.

Some producers who produce, process and sell, either at wholesale or retail levels, generally receive a premium price for their product commensurate with their marketing or merchandising efforts. The premium received, however, is directly affected by the price and availability of fresh or frozen birds produced locally and in other states and thus varies with supply-demand conditions throughout the entire industry.

In the light of the foregoing conclusions, it is necessary to regulate all marketings of turkeys in the production area in order to obtain the objectives of the act.

The record reveals that the production of turkeys increased over 70 percent during the ten years ending in 1961. The average yearly producer prices for turkeys for these years ranged from 60 to 87 percent of the parity price. In 1961 the prices producers received were the lowest since 1941, averaging 60 percent of the parity price.

From these findings on the record evidence it is concluded that all marketing of turkeys is in the current of interstate or foreign commerce, or directly burdens, obstructs, or effects such commerce. In addition, it is concluded that prices to producers have been such that parity limitations of the Act do not preclude promulgation of a marketing order for turkeys. Therefore, the right to exercise Federal jurisdiction in promulgating and administering a marketing order for turkeys is founded in fact and should be exercised.

(2) The conditions existing in the turkey industry clearly indicate a need for a marketing order for turkeys.

The national average annual production of turkeys for the ten-year period beginning in 1952 and ending in 1961 ranged from 59.8 to 106.9 million head of turkeys, the low point in production being in 1953 and the high point in 1961. The production in 1959 was 84.5 million turkeys and they were produced on 86,717 farms.

Production during the ten-year period increased from a low of 59.8 million head in 1953 to a high of 106.9 million head in 1961, or an increase of 79 percent. The annual average producer prices during the same period declined from the high of 33.7 cents per pound in 1953 to a low of about 20.7 cents per pound in 1961, or a decrease of 38 percent. In addition to a decline in average annual prices over the period the range of monthly producer prices within the years have tended to widen. These trends are illustrated in the table below:

Year	Number of turkeys raised (million head)	U.S. average producer price (cents per pound)	
		Annual	Range within the year
1952	62.3	33.6	
1953	59.8	33.7	6.2
1954	67.7	28.8	2.8
1955	65.6	30.2	6.9
1956	76.8	27.2	3.8
1957	81.4	23.4	5.4
1958	79.6	23.9	4.8
1959	84.5	23.9	5.3
1960	84.7	25.4	7.8
1961	106.9	[1] 20.7	4.6
			8.0

[1] Estimated.

Annual average farm prices for turkeys were less than the parity prices in each of the ten years. The annual average farmer price to parity price relationships ranged from 60 to 87 percent, with the low point in 1961 and the high point in 1953.

During the major marketing months of 1961, i.e., October through December, U.S. average producer prices ranged from 17.4 to 18.6 cents per pound. These prices were the lowest since 1941 and were 50 to 54 percent of the equivalent parity price. The average prices prevailing in 1961 were below the costs of production, not considering returns to labor and management, and resulted in losses of 5 to 6 cents per pound or approximately a dollar per bird.

During the ten year period 1952–61, the turkey industry showed its proclivity to adopt scientific and technological advancements and thereby increase the volume of its production to the extent that the volume of turkeys the industry can now produce exceeds a consumer demand for the product which will result in a reasonable price to producers. In 1961 the turkey industry dramatically demonstrated its ability to produce substantially more product than the market would absorb at a profit to even the most efficient producers. Turkey production in 1961 exceeded 1960, the last highest production year, by 26 percent. This volume so exceeded the demand that it resulted in producer prices well below producer costs reported by producers to be about 21 to 23 cents per pound. Substantial losses were sustained by efficient as well as inefficient producers, by small and large producers, and by producers who had held their production at the 1960 level as well as those who had increased their production.

Turkey growers, as individuals, are not in a position to cope with the industry-wide problem of keeping supplies in line with the estimated demand to achieve reasonable profit levels. Cut backs in one area, or by individual producers, are annulled by increases in other producing areas or by other producers.

Statistical reports issued by the Department late in 1960 and early in 1961 clearly demonstrated that the 1961 crop of turkeys would be significantly larger than the 1960 crop. The October 1960 survey of producers' intentions to hold breeder hens for 1961 production, for example, indicated an increase in breeder hens of 23 percent. The number of

breeder hens on farms January 1, 1961, which information was available to the industry in mid-February, showed numbers were up 27 percent from a year earlier. A survey of producer intentions to raise turkeys in 1961, issued in mid-January 1961, indicated an increase in production of 20 percent. With this knowledge in hand the industry organizations tried to get producers, on a voluntary basis, to cut back the indicated high level of production. The effort was completely unsuccessful.

The inability of the industry to make adjustments resulting in a stable and orderly marketing condition is occasioned in great part by the development and changes in the pattern of production. The turkey industry has, over a period of years, made continuous progress toward greater efficiency of production and marketing. Better strains of birds, improved feeds, new management and disease control techniques, labor-saving equipment, and larger production units have helped growers produce and market turkeys at a declining per unit cost. Technological gains have thus permitted a continued expansion in turkey output despite a long range downward trend in prices.

The technological developments, and resulting gains in efficiency in the turkey industry have made possible and encouraged a marked trend toward fewer, larger, and more specialized production units. Substantial investments have been made in these units, and there are few, if any alternative uses to which these resources may be directed. These large specialized units operate on a low cost per unit basis and are dependent on large volume production. This condition provides incentive to maintain or increase volume production and a marked tendency to avoid reducing production on the theory that because of their high volume they can survive on a low per unit profit.

Concurrent with the development of large specialized production units has been the development of large hatcheries, feed mills, and slaughterers. Because of the heavy investment in such facilities, every effort is made to keep them operating at capacity. Several methods are being used by such firms to accomplish this objective; the contracting for production, in some cases at a specific price as with a nonloss provision to the producer; the advancing of credit for feed, poults, and other requisites of production, and the integration of the growing operation with the hatchery, feed manufacturing, and processing operations. In many cases these interests, through their contract and credit operations, have had the effect of encouraging production without regard to the need therefore. An assured outlet for poults and feed is an advantage to the producers and purveyors of these products but has not been a corresponding advantage to the grower of turkeys since the increase in turkey production which has resulted therefrom has caused the returns to turkey producers to decline.

Because of the development of the large specialized production units, and the other influences on production discussed above, voluntary production adjustments to obtain a favorable supply-demand relationship cannot now occur as rapidly or to the same degree as in the past. Prior to the development of the large specialized production units made possible by technological developments, the production units were of necessity, usually small and were usually only one of several enterprises on the farm. In this situation voluntary restriction of production by the producer could be and was made without harsh economic effects since another enterprise of the farm would help soften the impact of such adjustment. There are of course, a good many of such small production units presently in operation which could make such an adjustment but so great a percentage of the total volume of annual production is presently produced by the large specialized production units that any voluntary restriction of production by such a small producer would not be sufficient to offset the production of the large volume units. Evidence of this fact is the testimony of many such small producers that they restricted their production for 1961 without noticeable effect on the total volume produced for the year.

Many witnesses at the hearing testified that although overproduction had caused them to lose money on their turkey production, they still felt that the industry could make production adjustments on a voluntary basis to bring production of supply in line with demand. They testified further that such an adjustment is currently taking place in that producer intentions to raise turkeys in 1962, as reported by the Department in January 1962, indicated a 12-percent drop in production from that of 1961. However, if such an adjustment is made, it is further evidence of the fluctuating production and marketing conditions prevailing in the industry which tend to cause disorderly marketing. The evidence of record also reveals that such production adjustments, under the current situation, would in part be accomplished by the small independent producer being forced out of turkey production. The evidence reveals that the small independent producer does not have sufficient financial resources to withstand continuing periods of loss. Such losses can be handled only by the larger segments of the industry who have or can obtain the necessary resources.

It is the declared policy and objective of the Agricultural Marketing Agreement Act of 1937, as amended, to establish and maintain such orderly marketing conditions for turkeys as will provide parity prices to farmers with due regard to the interest of the consumer and provide an orderly flow of turkeys throughout the normal marketing seasons so as to avoid unreasonable fluctuations in supplies and prices. On the facts found, it is concluded, therefore, that need exists for a turkey marketing order as hereinafter set forth and such order will tend to effectuate such declared policy of the act.

(3) The commodity to be regulated by this order is the domesticated fowl commonly known as turkey and technically known as Meleagris gallopavo. Such turkeys are produced in varying quantities in all States of the United States and are commercially marketed throughout the United States. Such term is defined for the purposes of the order to include all varieties or types where grown and marketed within the production area.

"Production area" should be defined to include the 48 contiguous States of the United States and the District of Columbia. Production and marketing methods are similar in all parts of the production area although, primarily because of climatic conditions, and location relative to markets, there are some variations in husbandry and marketing practices. The commercial practices in processing turkeys do not differ to any significant extent throughout the production area. In fact the processing and packaging of frozen birds is so similar that turkeys produced and processed in one State are indistinguishable from those which are produced and processed in another State. As indicated previously a significant proportion of the turkey crop is frozen, a condition which has allowed turkeys wherever produced in the production area to move freely between States and to compete in price and for markets with a locally produced product whether fresh or frozen. An example of such freedom of movement is the marketing in New York of turkeys produced in the states of California and Minnesota.

The proposals contained in the hearing notice dated November 2, 1961 (26 F.R. 10286), included the States of Alaska and Hawaii in the proposed production area. The proposed order herein excludes such States. The Agricultural Census for 1959 reports 4 producers of turkeys with 12 birds produced in Alaska and 122 producers with a total production of 3,891 birds in Hawaii. The contiguous States and the District of Columbia form a natural production area with turkeys moving freely between them to supply the markets in the production area. The States of Alaska and Hawaii are divorced from this natural boundary by their geographic locations. They are further distinguished from the proposed production area in that they, historically, have not been, and are not now, a source of supply for the turkey markets within the production area.

For the foregoing reason there is no reasonable method for dividing the production area into smaller units for purposes of marketing orders. The territory included within the production area constitutes the smallest regional production area that is practicable and consistent with carrying out the policy of the act.

On the facts above found on record evidence, it is concluded the production area should be defined as including all the area in the 48 contiguous States of the United States and the District of Columbia.

(4) "Handle and handler." The handling of turkeys should be defined as the slaughtering of turkeys in the production area for the production of meat. A "handler" is a person who "handles", i.e. slaughters, turkeys. The handler is the person who, under the applicable terms and conditions of the marketing

order, is responsible for slaughtering and processing the turkeys. The "handler" is the person upon whom rests the obligation of complying with the terms and conditions of the marketing order. Before a turkey can be marketed to the consumer it must be slaughtered. Slaughtering is done by persons operating plants for that express purpose, and by persons operating processing plants where turkey is processed for the consumer market and into many types of products including turkey rolls, parts, soups, prepared frozen dinners and a host of other products utilizing turkey meat. Turkeys are also slaughtered and marketed directly by producers themselves. In all instances, however, the turkeys are slaughtered before they are marketed to the consumer.

There are producers who have their turkeys slaughtered and processed by a handler on a fee basis. In such instances the producer retains title to the processed turkeys and markets them himself. This has been referred to as custom processing. Since the actual slaughtering was done by a person other than the producer, the person who did the slaughtering, and not the producer, should be the handler.

Although many persons may be involved in the actual marketing of turkeys in the channels of commerce they must all get their supplies from, or have the supplies processed by, a handler. Accordingly, the point of regulation of the order should be at the handler level.

Handlers, in acquiring turkeys for handling, should be permitted to do so only as prescribed by the order or by regulations issued by the committee pursuant to the order. It is contemplated that the committee will prescribe means, by certificates or otherwise, by which the source of the handlers acquisitions may be identified.

(5) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the marketing order. Such terms should be defined and explained for the purpose of designating specifically their applicability in establishing the limitations of their respective meaning whenever they are used.

(a) *Definitions.* "Secretary" should be defined to include not only the Secretary of Agriculture of the United States, but also, in recognition of the fact that it is physically impossible for him to perform personally all of the functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter, be authorized to act in his stead.

"Act" should be defined within the order to provide a ready and correct legal citation for the statute pursuant to which the marketing order is promulgated and administered. Repetition of the citation, therefore, is unnecessary when used thereafter in the marketing order.

The definition of "person" follows the definition of that term as set forth in the act, thereby insuring that it will have the same meaning as when used in the act.

"Quantity" is defined in the order as meaning the weight of live turkeys at the time of receipt by a handler or other person.

Under the volume regulation provisions of the order producers are equitably apportioned their share of the desirable quantities of turkeys. There are many types or varieties of turkeys produced in the production area. Some, commonly called fryer-roasters, are generally of the Beltsville variety having a live weight of about 8 to 12 pounds. Others, such as Bronze toms, are generally in excess of 18 pounds. The "quantity" definition allows the committee to make apportionment to producers in live weight pounds, rather than by type of turkey. This has the advantage of allowing the producer freedom to change the type of turkey he is producing to meet changes in consumer preferences. Live weights can be readily converted to a very close approximation of the number of head of turkeys involved if the age, sex, and type of birds are known and the committee is authorized to develop and, by regulation, issue conversion ratio figures so that all such conversions can be made on a common standard. Statistics relating to the volume of turkeys produced generally indicate the volume in both head count and live weight.

The quantity definition sets the weight of live turkeys at the time of receipt by a handler or other person. Inclusion of "other person" in the definition recognizes a practice wherein producers sell live turkeys to other producers and to other persons who then arrange for the handling of the turkeys. "Other person" is intended to include other producers. Turkeys so marketed by a producer will be included as part of their historical production for computation of base purposes.

It had been proposed that the quantity definition include "weight at the time of shipment to a handler" as well as weight at time of receipt' by a handler. However, receipt of the turkeys by a handler or other person is accomplished when the weight of the turkeys have been established whether at the farm, the plant, or at some public scale in between. Accordingly, the words "at the time of shipment" are redundant and unnecessary and have been omitted.

It had also been proposed that the definition of quantity includes the live weight equivalent of processed turkey. Processed turkey is defined separately and is not necessary in order to determine the quantity of turkeys a handler may acquire. It, therefore, is not included in the proposed definition of quantity.

"Processed Turkey" is defined in the order as eviscerated turkey (ready to cook) or the equivalent thereof of New York dressed or Kosher processed turkey. This definition recognizes that turkeys are processed in different forms to fill consumer preferences and the same turkey will have a different weight depending on the form in which it is processed. Since handlers will be assessed the costs of administering the order and since each handler's pro rata share of such costs must be determined equitably, irrespective of the way the turkeys are processed, the definition of processed turkeys provides for a method of determining and pro rating such costs. The committee by regulation would establish a schedule of conversion factors for the different forms of processed turkeys for this purpose.

"Exempt handler" is a handler who handles (slaughters) less than a quantity of 7,000 pounds or approximately 400 turkeys per year. Handlers in this category are exempt from all except the reporting provisions of the order. This provision recognizes that small quantities of turkeys are handled on the producer's farm, in wholesale establishments, or in some cases, by retail meat outlets. The handlings by these handlers are sporadic and the volume handled will have little noticeable effect on the purposes of volume regulation of the order. Further, the application of the set-aside provisions to these handlers would be a substantial burden upon their operations without noticeably contributing to the volume regulating effect of the set aside.

Such handlers are also exempt from assessments because the amount of their contribution would usually be so little as to be offset, and in some cases exceeded, by the committee's costs in collecting the assessment. Such handlers, however, may be required to file such reports and keep such records as the committee may require to verify the handler's exempt status and furnish information to the committee necessary for the efficient administration of the order.

By being exempt from the volume regulations of the order, the exempt handler may acquire for handling up to 7,000 pounds of turkeys from any source without regard to the volume limitations of turkeys under methods numbers I and II of the order.

"Production facilities" should mean the land, buildings and equipment utilized in the production of turkeys. This definition is necessary to describe the facilities utilized in producing turkeys by a producer-grower and is one of the factors which distinguishes a producer-grower from a contract-producer.

"Market" should mean the disposition by a producer of a quantity of turkeys to handlers, producers or other persons. The word "market" should be used in various provisions of the order and this definition is necessary to prescribe the limitations of the word. In order for turkeys to be marketed such marketing must be done by a producer to a handler, to another producer, or to other persons not qualifying as handlers or producers under the order.

A "producer" under the order is a person, other than a producer-handler, who falls within either of two categories or classes. The first is the producer-grower and the second is the contract-producer.

A "producer-grower" is a person who (1) operates production facilities in a proprietary capacity, (2) produces in excess of a quantity of 3,600 pounds of turkey on such facilities in a year, and (3) markets turkeys to a handler.

A "contract-producer" is a person who has a proprietary interest in turkeys produced by a producer-grower.

In order to qualify as a producer under the order a person must meet each of the applicable conditions set forth in the definition. A person who produces and handles his own production is not a producer since it is considered that the predominant part of such an operation is the handling of the turkeys.

With regard to a producer-grower the first conditions to be met is that a person must operate, in a proprietary capacity, production facilities on which turkeys are produced. Proprietary capacity is used in the defintion to distinguish between the grower and persons merely employed to supervise or manage the production operation. If the farmer or grower has a contract for the production of turkeys where the risk of loss is shared, or is even solely on the other person, the grower would still be a producer since his business, i.e. his proprietary capacity is the farm on which the turkeys are grown. There are many types of financing contracts in use by the industry and some such contracts purport to give control over the production facilities of the grower to the other person, who is usually a contract-producer as defined. However, a test to be applied for the purposes of the order is whether the contract is such that the control of the real estate and facilities is its primary purpose and the turkeys secondary as contrasted with the primary purpose or intent of the contract being to provide financing of turkey production and control over the real estate i.e. production facilities are provided in order to insure participation in the control over the production of turkeys. In the latter case the grower would be the producer-grower under the order.

The second condition which should be met in order to be a producer-grower is that a quantity in excess of 3,600 pounds of turkey is produced on the production facilities of the grower in a year. Any person who produced less than a quantity of 3,600 pounds of turkey would not be a producer; 3,600 pounds amounts to about 200 turkeys using the national average of about 18 pounds per turkey. The total production of such persons is rather small. Using the information supplied by the agricultural census of 1959, and taking the midpoint of production on farms producing under 50 and between 50 and 399 birds, the farm which produced under 200 turkeys would account for less than 4 percent of the national turkey production. In addition the production of such turkeys is sporadic and dispersed widely throughout the production area, and their marketings are usually limited to markets within a few miles of where produced. In view of these conditions marketings of these turkeys are not of such significance as to be included within the realm of the order. The fact that persons producing less than a quantity of 3,600 pounds of turkeys would not be producers under the order would in no way preclude handlers from acquiring their turkeys since such acquisitions by handlers are allowed under regulations of the Committee.

The third condition which should be met to be a producer-grower is that production of such persons must be handled by handlers other than exempt-handlers or producer handlers. Such handling of turkeys by the handler is intended to include all the means by which a handler acquires the production of a producer including the handlers custom processing of turkeys for the account of the grower.

The impact of regulation under the order is upon the handler and volume regulation is effectuated by limiting the quantity of turkeys a handler may acquire or dispose of. Live turkeys are the subject of many transactions between producers and other persons not handlers. Since the order does not regulate producers in their capacity as producers, it does not regulate their transactions. Accordingly, the turkeys produced by producers and such other persons come under the regulation only as they are acquired by handlers. Since the total quantity of turkeys which all handlers may acquire are apportioned equitably among all producers, it is logical to define a producer as one whose production of turkeys is handled by a handler.

To qualify as a contract-producer under the order a person should have a proprietary interest in turkeys from the production of a producer-grower. Accordingly two conditions should be met. The first is that the turkeys in which a contract-producer is involved must be produced by a person who qualifies as a producer-grower under the order. The second condition is that the person must have a proprietary interest in the turkeys produced by a producer-grower. "Proprietary interest" has been defined as sharing in the risk of loss in the production of turkeys. The sharing of such risk is usually occasioned by a contract between a producer-grower and one who furnishes the financing of the production operation. Such financing usually takes the form of an extension of credit for the supplies necessary in the production of turkeys and/or furnishing such supplies. However, in order that such person have a proprietary interest in such turkeys it should be shown that the contract provided that the financing persons shared or bore the risk of loss of the operation. There are a substantial variety of contracts being utilized in the industry and they contain varying provisions on the rights and liabilities of the parties.

Certain of such contracts are the chattel mortgage or security type which result in obligating the turkeys and/or other property as collateral to secure the credit or financing advanced to the producer-grower. In some instances the balance of the debt resulting from the financing may be cancelled by the financier at the completion of marketing of the turkeys if the returns from the turkeys are insufficient to cover the producer-growers costs of supplies. Although this type of situation can be considered as sharing in the risk of loss of the production of turkeys it is not the type of risk which is contemplated under proprietary interest. A test which might be applied to determine proprietary interest risk of loss might be as follows: Under the terms of the contract, is the producer-grower obligated to the financing party for the full amount of financing regardless of the returns from the disposition of the turkeys or does the contract provide that if the returns from the turkeys are less than the financing then the difference shall be shared by the financing party and the producer-grower or borne entirely by the financier.

In the first instance there would be no proprietary risk since the party advancing the financing, by way of credit for feed, poults, supplies, or otherwise, has an enforceable right under the contract to be paid back by the producer-grower the amount which was advanced. In the latter instance the financing party's advances would be legally satisfied by the returns of the sale of the turkeys regardless of whether such returns were more or less than the amount advanced. Title to the turkeys is not necessarily a determining factor since in almost every financing type of contract, whether risk sharing or not, a security title is held by the financing party.

The assumption of sharing of the risk of loss, i.e., having a proprietary interest, in the turkeys is the basis upon which such a person is eligible for producer status under the order. Historically, the entire risk of loss of producing turkeys has been borne by the producer-grower. However, in the last ten years there has been an increasing tendency by the producer-grower to share that risk with others with the result that the producion operation has been divided into two parts. On one hand the producer-grower contributes his time, labor, facilities, and management know how, and the other party contributes the financing. Both are integral parts of the production process. The definition of producer recognizes this fact by including as a producer, a person who has a proprietary interest in the turkeys.

In determining the relative shares of interest of a producer-grower and a contract-producer in a quantity of turkeys for base computation purposes, the order provides that each shall be deemed to be a producer of one-half the turkeys produced under such a contractual arrangement. It is recognized that the proportionate share of risk is a matter of negotiation between parties. However, in determining the actual or real risk of each party would require an analysis of the actual costs of supplies to the contract-producer and a determination of the costs of the producer-grower's labor, management know-how, depreciation of production facilities and other factors. These factors were apparently considered by the proponents of the proposal and by witnesses at the hearing and the one-half split was supported as logical and proper. There was virtually no opposition to this proposal at the hearing. The division of the production between the contract-producer and producer-grower for base computation pur-

poses appears to be equitable under the circumstances.

While the vast majority of the contracts between producer-growers and contract-producers are in writing, there may be some similar arrangements on an oral contract. In such cases the burden of proving the contract should logically be on the party asserting it.

An "exempt producer" should be a person who operates production facilities on which a quantity of not more than 3,600 pounds of turkey are produced in a year. As indicated in the discussion of the definition of "producer", the volume of turkeys produced by an exempt producer does not have a significant impact upon the purposes of the order and handlers, therefore, they may freely acquire for handling such turkeys under procedures issued by the committee.

The order should contain a definition of a producer-handler. This definition recognizes a rather common type of production and marketing in the turkey industry. There are many turkey producers in the production area, notably in the northeast and in areas which are proximate to large urban populations, who slaughter birds of their own production and then retail such birds in such urban areas, usually in fresh unfrozen form. Such producers usually produce for a specific market which they have developed by dint of their merchandizing efforts and their production is relatively minor in relation to the total production of turkeys. Producer-handlers of the size prescribed in the order usually operate handling facilities which are not federally inspected and consequently, their turkeys do not move in interstate commerce but are marketed in areas proximate to where they were produced. Although these turkeys are sold in areas where turkeys from other states, fresh or frozen, are marketed, the producer-handler has, through his merchandizing efforts, and in providing special preferences or services to his customers, developed a special market for his product in which he usually receives a premium price for his product which is in excess of the prices of non producer-handler turkeys being sold in the area. Since the handling and marketing are the key or focal points of a producer-handler operation, a person who produces and handles turkeys in this fashion is considered a handler and not a producer under the order. The application of the assessment, set aside, and handling restriction provisions of the order might tend to force these persons to discontinue their operations. In view of the specialized nature of the operation and markets of a producer-handler, it is desirable to allow such persons to continue providing their services to the consumer. A producer-handler, therefore, is exempted from these provisions of the order. They are, however, subject to the reporting requirements of the order.

The order prescribes definite limitations on a producer-handler in that such a person is defined as one who (1) in his own handling facilities (2) handles a quantity of not more than 100,000 pounds of turkey per year (3) of which not more than 5,000 pounds are other than his own production and (4) must not dispose to other persons a quantity in excess of 5,000 pounds. Each of these conditions should be satisfied before a person can become a producer-handler.

The first requirement is that a person must operate his own handling facilities. A person who has turkeys custom processed would not be a producer-handler. A person with this type of operation would not be a handler under the order and, therefore, would not be regulated.

The next requirement is that such person may not handle a quantity of more than 100,000 pounds of turkeys per year. This is approximately 5,000 head of turkey. The record reveals that the vast majority of persons having a producer-handler type operation fall within this quantity of handling. The total quantity of turkeys so handled is relatively small compared with the total volume handled by handlers and the markets of a producer-handler are usually seasonal and scattered in area so that producer-handler operations of this size will not significantly affect the purposes of the order.

The next two requirements of a producer-handler are that he must not handle more than a quantity of 5,000 pounds of turkey which are not of his own production and must handle all but 5,000 pounds of his own production. This recognizes that disease, weather conditions, and other factors make it difficult, if not impossible, to produce an exact number of pounds of turkeys. The definition allows, therefore, a producer-handler to either buy or sell 5,000 pounds of live birds in order to maintain a stable handling operation. The evidence reveals that a producer can produce within 5,000 pounds of a specific quantity of turkeys.

Some witnesses testified that a producer-handler should be frozen to the quantity of turkeys handled during a given base period, otherwise all producer-handlers would produce and handle the 100,000 pound maximum quantity and that if all did this the effectiveness of the volume regulation provisions would be impaired. The evidence of record, however, reveals that there is little likelihood this situation will occur. The production and handling of producer-handlers has not shown a tendency to increase over the years. In fact their tendency is in the opposite direction in that their production and marketing either has not varied appreciably from year to year or, notably on the eastern seaboard, has shown a marked tendency to decline over the years, their highest quantities being handled during and immediately after the war years. The per unit costs of a producer-handler, both in producing and handling, is higher than individual handler and producer operations so that it is necessary for them to obtain premium prices in order to continue their operations. These factors plus the continued trend of consumer preference to the convenience of handling and storage of frozen turkeys will effectively hamper the growth in size of a producer-handler.

The order, under the section Application of Provisions, requires that starting February 1, 1963 any person not then a producer-handler must make application to the committee for that status. The committee, in determining whether to approve such application may determine the effect of producer-handlers on the volume regulation provisions of the order and may refuse to approve applications for such status if they determine that additional producer-handlers may adversely affect the effectiveness of such volume regulations.

One of the purposes of exempting persons in the producer-handler category is such persons having usually been operating such a business for a number of years and that the impact of assessments, set aside, and restrictions on quantities which they may acquire for handling, would be such as to force them out of business. Such considerations are not applicable to persons not presently a producer-handler and the committee, after a period of operation under the order has the authority to determine whether the purposes of the order would be best served by approving or disapproving such status. February 1, 1963 is the start of a new marketing year. The time between the effective date of the order and February 1, 1963, therefore, gives persons with the producer-handler type of operation who may be outside the prescribed producer-handler limitations a reasonable opportunity to adjust their production and handling to comply with the limitations.

"Year and marketing year" are synonymous and mean the 12 month period beginning February 1 of each year and ending January 31 of the following year. The marketing year has been set up to conform with the recognized marketing year of the industry. The record reveals that producer marketings are at their seasonal low in February. Also that cold storage holdings on February 1 are relatively high and from February through July are generally on the decline. It is during this period that the new crop is being produced for marketing in major volume during the fall and winter. "Year" has been included as part of the definition so as to make it clear that years prior to the effective date of the order would be "marketing year" periods and not calendar year periods in computing allocation basis and for applying the definitions of the order. This will allow for consistency in applying the provisions of the order.

(b) *Turkey Advisory Board.* There should be established a Turkey Advisory Board to provide a broad representation within the industry, with the opportunity of drawing on the advice and knowledge of many persons, to advise the administrative committee on marketing policy and other matters and to provide a means to nominate to the Secretary the members and alternates of such committee. The board should be composed of 57 members and alternates nominated by the industry from the states set forth in the order, and 3 representatives-at-large and their alternates, to be selected at the discretion of the Secretary.

Each of the fifty-seven members of the board selected by nomination should be a producer or handler or an officer or

employee of a corporate producer or handler. A person with such qualifications should be intimately acquainted with the problems of producing or marketing of turkeys, and each may be expected to present accurately the problems incident to production or marketing of turkeys produced in the area or part of the industry which he represents. The qualifications for each alternate should be similar to those for the respective member for whom he may act. Such qualifications should help to assure that the interest of the group from which he is selected will be adequately represented in board and committee deliberations.

The States or groups of States for which the fifty-seven of the board members would be representative were initially proposed by the National Turkey Advisory Committee and it is concluded such grouping is an appropriate basis for providing a fair, adequate, and equitable representation on the board.

The three members of the board who would be representatives-at-large would be selected at the discretion of the Secretary. The Secretary's three selections could very well round out the membership of the board if it is found that the nominees are unbalanced as to producer or handler representation. For instance, the nominees from the Northeast area may turn out to be all handlers (or producers). In such event one of the Secretary's selections could be a producer (or handler) from that area to insure that the board has the benefit of the knowledge and experience of both segments of the industry in that area. Similarly, the board may be further rounded out by a consumer representative appointee.

It is practical and equitable that selection of the fifty-seven board members and alternates should be on the basis of the States and groups of States provided for in the proposed marketing agreement and order. This would provide a geographical basis for selection of such members. Such geographical basis should be, and for purpose of initial membership has been, related to the relative production of turkeys within the United States so that a practical basis for establishing equity has been reached. The proposed distribution of members on the board also would equitably represent producers and handlers in the various producing areas, and would adequately represent the interests of the groups from which each member and alternate would be selected.

Terms of office should be for three-year periods, the term ending on the last day of January. A three-year period recognizes the need for continuity of membership on the board. This continuity is further recognized by having one-third of the board nominated each year. During the three-year period, the board and committee should have full opportunity to determine, test and correct working policies. This could be adversely affected by periodic appointments of inexperienced persons to the board. At the same time the industry by nominating one-third of the membership of the board each year has an opportunity to express their views on the board's policy without resorting to the referendum procedure.

To permit a full complement of members and alternates, each person should serve until his successor has been elected and has qualified by accepting his appointment. At the initial nominations, in order to effect the staggered terms of office, one-third of the board should be nominated for a term of 1 year, one-third for 2 years, and one-third for 3 years. Since the nominations will be made from each of the States of the United States and there may be difficulties in getting all interested persons together to decide on such staggered terms, it is appropriate that such staggered terms be determined by the Secretary or under techniques determined by him.

Nomination meetings for the purpose of selecting nominees for members and alternates on the board should be called and supervised by the committee. The committee functions as the administrative agency of the board and the Secretary for administering the order and its staff and organization make it the logical body to organize and supervise the nomination meetings. However, for the initial nomination meetings, which should be held as soon as practicable, the Secretary should perform the functions of the committee. This is necessary because the committee will not be in existence at the time such initial meetings are held.

The meetings, of course, should be held in the States or group of States listed in the order and reasonable publicity should be provided for such meetings. The meeting should be held at such time as will allow the committee sufficient time to certify the nominations to the Secretary by January 4.

Only producers and handlers as defined in the order should be eligible to vote. The prime purpose of the board is to develop and recommend policies to the Secretary which will directly affect producers and handlers and, therefore, these persons should be the ones to elect nominees for membership on the board. For this reason, also, only producers or handlers should be nominees for membership on the board.

Three nominations should be made for each member position which would also be deemed to be the nominations for such member's alternate. Under this situation the Secretary would have a choice in making selections of the member and the alternate. In addition, if a nominee declines to serve, the Secretary would also have the name of another prospective member or alternate from which to make a selection. Each producer and handler participating in the industry meetings should be limited to one vote for each nominee position. If a person qualifies as both a handler and a producer, such person should have the same number of votes as a person who operates in a single capacity. Otherwise, persons with such dual capacity would have an advantage over persons who operate in a single capacity in determining membership on the board, and, therefore, defeat the purpose of having fair and equitable representation of each segment of the industry on the board.

The committee should certify the election of the nominees to the Secretary and such certification should contain a summary of the nominees' experience and association with the turkey industry. This information is necessary to acquaint the Secretary with the nominees' qualifications so that in making the appointments to the board he can, in so far as possible, assure fair and adequate representation of the various segments of the industry. The certifications should be filed with the Secretary no later than January 4 of each year. This would allow the Secretary a fair and reasonable time to select the membership of the board whose terms of office would begin on February 1.

The duties of the board shall consist of selecting from among its members a chairman and other officers and establishing procedures for performing its functions. This is necessary to allow the board to carry out its functions in an orderly and business like manner.

The board shall also make nominations for membership on the committee and certify those nominations to the Secretary. The major duty of the board also is to make recommendations with respect to marketing policy. This facet of the board's duty is discussed in more detail elsewhere in this decision. In order to avoid a failure to anticipate all the matters which may be placed before the board, there should be a general provision in the order which states that the board may give consideration to such other matters as it deems proper or as the committee or the Secretary may request.

(c) *Turkey Administrative Committee.* There should be established a turkey administrative committee to administer the terms and provisions of the marketing order. Establishment of this administrative committee is desirable and necessary to aid the board and the Secretary in carrying out the declared policy of the Act. Such committee would be the agency which would implement the policy decisions of the board and Secretary and to carry out the day to day administration of the provisions of the order. The committee would consist of 19 members and for each member there should be an alternate member. Only members or alternate members of the board can be eligible for membership on the committee and such member or alternate may continue to serve on a committee only so long as he is serving as a member or alternate member of the board. A committee of 19 is appropriate in that it is approximately one-third of the membership of the board and that number would provide a reasonable representation of the makeup of the board. A committee of 19 is also such that it can operate efficiently. Any larger number would tend to be cumbersome and inadequate to make rapid decisions which the committee may be called upon to make. Of the 19 members of the committee, one of such members shall be the chairman of the board. This individual shall also be chairman of the committee. By having the same individ-

ual as chairman of the board and the committee, effective liaison between the board and committee is accomplished as well as insuring that the board's policies as annunciated are properly interpreted and implemented by the committee.

Nominations for committee membership shall be made by the board from among its members and alternate members. This means that alternate members of the board may also be eligible for membership on the committee. This is reasonable as the board might find that certain of its alternate members may be so qualified that their services as members of the committee may be advantageous to the carrying out of the board's and the committee's functions. All nominations for committee membership should be certified to the Secretary as soon as practicable following nomination so that the Secretary may be appraised of the board's selections. The board should nominate 38 nominees to be certified to the Secretary and the Secretary shall then appoint 19 of the such nominees as members of the committee and 19 to serve as alternate members.

Members and alternate members of the committee shall serve for terms of one year ending on January 31. This period conforms to the marketing period proposed in the order. The terms of office of the committee are such that newly elected members of the board who may be elected to the committee can adequately reflect producer sentiment of the board's policy.

To assure continuity of the committee each such member and alternate member should continue to serve until his successor is elected and has qualified. Such qualification would amount to the nominee for committee membership notifying the Secretary that he is willing to serve in such capacity.

The enabling Act provides in section 608c(7)(C) for the selection by the Secretary of an agency to administer the order and also specifies such agency's powers. These powers should be enumerated in the order and thus would serve to notify the committee and other interested persons, as to extent of its powers. There should also be set forth in the order the several duties which the committee shall have in administering the program. The proposed duties are similar to those specified for other administrative agencies under federal marketing order programs and are essential to enable the committee to function efficiently and discharge its responsibilities. The listing of duties are not all inclusive and other additional duties which may be essential to the full administration of the program may be assigned the committee, by the board or Secretary.

(d) *Selection of board and committee membership.* In making selections for board and committee membership the Secretary shall give major recognition to turkey producers including consideration of the size, nature, and location of their production operations. This will assure that the board and committee in their policy considerations and implementation of such policies will adequately represent the views of all the producing segments of the industry. The Secretary in his selection shall also give consideration to reasonable handler representation on the board and committee so as to insure that the board and committee can have the views of all segments of the industry.

In order to assure the existence at all times of a board and administrative agency to administer the program, the Secretary should be authorized to select members of the board or committee without regard to nominations if for any reason they are not submitted to him in conformance with the procedure prescribed in the marketing order. Such selections should, of course, be on the basis of the representation provided in the marketing order.

Each person selected by the Secretary as a board or committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such a capacity. This requirement is necessary so the Secretary will have definite knowledge that the person appointed is willing to serve and that the position has been filled.

Also to insure that all portions of the production area are adequately represented in the conduct of the board and committee's business and that continuity of operation is not interrupted the marketing order should provide for alternate members to be authorized to act in the place and stead of the member during the member's temporary absence or in the case of death, removal, resignation, or disqualification of the member.

It is also desirable and necessary that the Secretary be authorized to fill committee vacancies without regard to nominations if nominees to fill such vacancies are not made available to the Secretary within 40 calendar days after such vacancies occur. This requirement is necessary to maintain continuity of board and committee operations and to insure that both producers and handlers are adequately represented in the conduct of board and committee business.

A quorum of the board should consist of not less than 30 members and a quorum of the administrative committee should consist of at least 10 members. This would not only insure that a majority of the members must be in attendance at the meeting, but also help assure that representation by present and reflect an accurate and representative cross section of industry thought and attitudes. After the board and committee have been operative for a period of time they may conclude that the effectiveness of the administration of the order program may be improved by changing the quorum requirements. In such case authorization is provided to allow a change in such quorum requirements by the Secretary upon recommendation of the board or committee. Proxy voting is not intended. Therefore all votes other than those cast by mail or telegram should be cast in person in order that all members may participate in the discussions and present the views of their constituents. If for reason a member is unable to attend the meeting he should arrange for his alternate to attend and vote in his stead.

The committee should be authorized to vote by mail or telegram as it may be necessary at times for the committee to act more promptly than a meeting in person would allow. Since the membership of the committee may be from all parts of the United States, these methods are intended to expedite committee action better to meet time necessity. When such vote methods are used, however, the proposition to be voted upon must first be explained accurately, fully, and identically by mail or telegram so that all members will have the same facts upon which to base their decision. However, since this method of voting will not have the advantages of the discussions which would prevail at a personally attended meeting, the quorum to carry such a vote should be set at 14 members in order for the proposition to be carried. Because marketing conditions often change rapidly, it is essential that the committee should be permitted to take prompt action necessary to properly protect the industry's interest.

Board and committee members and alternates while on board or committee business will necessarily incur some expenses. These expenses, which may include travel and living expenses, should be reimbursed so as to avoid personal financial loss to members which might otherwise occur because of his service to the board or committee. Also, compensation at rates to be determined by the committee, with the Secretary's approval, is authorized since committee members may incur additional expense with respect to their own affairs when attending to board or committee affairs. These provisions should also extend to alternate members when performing official duties.

(e) *Expenses and assessments.* The committee should be authorized to incur such expenses as the Secretary finds reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of such committee, and for such other purposes as the Secretary, pursuant to the provisions in the marketing order, determines to be appropriate. The committee should also be required to prepare a budget and a rate of assessment to be applied to all handlers. Such budget and rate of assessment should be submitted to the Secretary as soon as practicable after the beginning of the marketing year and as often as may be necessary showing estimates of income and expenditures necessary for the administration of the marketing order for such marketing year. Each budget should be presented to the Secretary with an analysis of its components and an explanation thereof. The committee should recommend a rate of assessment to the Secretary designed to return sufficient income each marketing yeaf to cover expenses incurred by the committee. No increase in the total budget should be made without prior committee recommendation and approval of the Secretary. The funds to cover committee expenses should be obtained by levying assessments on handlers. The act authorizes the Secretary to approve the

incurring of such expenses by agencies such as the board and Turkey Administrative Committee. The Act also authorizes each marketing order to contain terms and provisions requiring handlers to pay their pro rata shares of the administrative agency's necessary expenses. Each handler should pay the committee, upon demand his pro rata share of such expenses. Such assessments should be based upon the hundredweight of processed turkey which each handler handles in the marketing year. The rate of assessment shall be determined by the Secretary upon the recommendation of the committee but in no event should such assessment exceed 20 cents per hundredweight. The committee should be authorized at any time during a given marketing period to recommend the approval of decreasing the rate of assessment if income exceeds the amount of funds anticipated or increasing the rate to cover unanticipated expenses or a deficit in the anticipated quantity of turkeys handled. Since assessments are a cost to the handlers operation, such cost must be taken into consideration by him in planning the operation of his business and to apply a retroactive assessment to a handler may cause undue hardships to handlers in this situation.

Authorization is provided in the order for the Secretary to accept advance payments of assessments from any handler. Also since it is possible that the board in its policy decision may decide not to apply any volume regulation during the marketing year or periods within the marketing year authorization is also provided to allow assessments to continue during such periods. If the committee would not have such authorization it might be forced to discharge certain of its personnel and to give up office space, which trained personnel and office facilities may be difficult to replace when full operation of the committee is again required.

Any excess of assessments collected which remain at the end of such period should, to the extent practicable, be refunded proportionately to the person from whom it was collected. Such refunds may be credited to contributing handlers respectively against the operations of the following fiscal period, unless payment should be demanded, in which event proportionate refunds should be paid.

The committee should also establish a reserve. Such a reserve is necessary in order for the committee to operate on a businesslike basis. It might be appropriate, therefore, that funds remaining at the end of a marketing period, which are in excess of those necessary for payment of expenditures during such period, to be applied to the reserve. The reserve could be effectively utilized by the committee in several ways.

If and when the committee should be required to liquidate its affairs, expenses will necessarily be incurred in the liquidation process. The reserve can be utilized to cover these expenses.

It is generally considered to be good business practice to provide for unforeseen contingencies. For example, it is possible that adverse weather conditions or disease might result in a substantial deficit in the estimated desirable quantity of turkeys for the marketing period. Also, the anticipated quantity of turkeys for any season might conceivably be reduced by other factors. The net effect of such a reduction would be to greatly reduce the quantity of turkeys for marketing and could cause the discontinuance of regulation and the collection of assessments or a reduction in total committee revenue. In order to continue and maintain the nucleus of a committee organization and to assure the performance of a minimum of basic services, the committee should have authority to secure needed extra funds to cover the expense of operation during such a marketing period. Such funds might reasonably be drawn from reserves.

Reserves might also properly serve additional purposes. At the beginning of each marketing period, needs arise for operating monies at a time when there will usually be little, if any, revenue from assessments. It is a customary and sensible budgetary practice, and the committee should be so authorized, to borrow operating funds from the above reserve until such time as assessment collections provide adequate revenue to meet current expenses.

It is contemplated that any such reserve will have a quadruple use; namely, (i) to defray expenses during any marketing year, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any marketing year when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of the order. Proponents testified reserves should be limited to an amount roughly equivalent to the average budget of expenses for one marketing year. Any funds remaining after reasonable provision for liquidation, including any balance remaining in reserve funds, should be refunded to handlers on a pro rata basis. In some cases, however, an individual handler's account will be such a small amount as to make the return thereof impracticable or unduly expensive. Funds of such insignificant nature should be used by the committee for purposes of liquidation or put to such other use as the Secretary considers appropriate in the circumstances.

The committee should provide periodic reports on its fiscal operations. It is expected that audit reports will be requested by the Secretary at appropriate times, such as at the end of each marketing season, or at such other times as might be necessary to maintain appropriate supervision and control of the committee's affairs. Also, monthly financial statements which reflect the current fiscal position of the committee should be furnished members, alternates, and the Secretary. Annual audit reports and monthly financial statements should also be made available on request to persons, such as producers, and handlers, having a valid interest in the committee's affairs. In no case should data of a nature which could be detrimental to the interests of an individual handler or producer be disclosed in releases of fiscal or other reports. If the committee should recommend that the operations of the marketing order should be suspended, or if no regulation should be in effect for a part or all of a marketing season, the committee should be authorized to recommend, as a practical measure, that one or more of its members, or any other person, should be designated by the Secretary to act as a trustee or trustees during such period. This would provide a practical method whereby the committee's business affairs could be taken care of during periods of relative inactivity with a minimum of difficulty and expense.

(f) *Research and development.* The establishment or provision for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of turkeys is authorized by the act. Such authorization on record evidence found, should be included in the marketing agreement and order.

Through the medium of research investigations, the committee can obtain information which would enable it and the Secretary to determine with a greater degree of accuracy the effects of specific regulations on the market and thereby promote more orderly marketing. As the industry and the committee become more aware of the value of and need for marketing research and development, projects will undoubtedly be initiated, the need for which will not have been foreseen early in committee operations. Therefore, the committee should have the authority to recommend and the Secretary should have the authority to approve the establishment of such projects which are in the best interests of turkey marketing and which would assist, improve, and promote the marketing, distribution, and consumption of turkeys. After approval, the committee should be empowered to engage in or contract for such projects, to spend funds for that purpose, and to consult and cooperate with other agencies with regard to their establishment. All such projects should receive the prior approval of the Secretary.

(g) *Marketing policy.* A marketing order program is necessary, as hereinbefore found, to promote orderly marketing of turkeys as a means of increasing producers' returns toward parity. To this end it is necessary that the Turkey Advisory Board prepare and submit to the Secretary for his approval, at least once each marketing year, a detailed report setting forth its policy which will tend to effectuate the purposes of the order. Members and alternates of the board will bring to board deliberations direct, intimate knowledge, and expert judgment concerning the quantity of available supplies in the production area and the state or condition of the turkey market, not only in its general but also in its unique supply and demand features. Board members and alternates are in a position of direct interest, advantageously situated to determine if and

when quantity or quality limitations on the handling of turkeys would tend to promote orderly marketing and increase producer returns toward parity.

Marketing policy statements should indicate to producers and handlers the general marketing outlook and plans the board and committee intend to follow. Both handlers and producers would benefit by marketing policy statements so adequate preparations may be made for handling within and complying with the regulations which the board indicates may be recommended. Since the marketing of turkeys is of necessity preceded by a period of as long as twelve months for the planning of production for such marketing and since producers cannot plan their production intelligently without a knowledge of the marketing policy required to effectuate the orderly marketing of turkeys, the Turkey Advisory Board should prepare and enunciate its marketing policy in the Fall for the following marketing year.

Although the growing period for turkeys usually does not exceed 6 months, considerable planning must precede the growing period in order that breeder hens will be available at the proper time to produce the eggs to supply the necessary poults for the production of meat birds. Since the planning for production begins with the selection of breeder hens mostly in the Fall and early Winter of the preceding year, the marketing policy for the succeeding year should be prepared and released at that time. Literally thousands of persons are involved in planning for the production of turkeys; breeder hen producers, hatcheries, producers of turkeys, feed manufacturers, processors, and others. Such persons plan independently and together. It is necessary, therefore, that the marketing policy developed by the board be made widely known to persons involved in the production and marketing of turkeys.

Marketing policy relating to volume regulation would be based on long term or marketing year considerations and outlook and considerations relating to quality regulation may be short term considerations to be applied in periods within the marketing year. Orderly marketing is dependent on many factors which are variable in nature. The demand for turkeys, for example, is not static but varies with the seasons and with the supply of competing foods. Although the number of turkeys produced is related to the number of breeder hens, eggs, and poults available, the relationship is only general and can and does change due to such factors as changing weather conditions, variations in the rate of lay of breeders, variations in the fertility of eggs, variations in the mortality rate, etc. For these reasons the board should have the authority to amend its marketing policy from time to time if the conditions change sufficiently to substantially affect the original marketing policy.

The facts and considerations set forth in the marketing order outline appropriate standards for the board's consideration in developing a marketing policy. To the extent that each of the factors set forth therein is applicable to particular problems confronting the board, they should be adequately dealt with in the marketing policy statements.

The committee is charged with authority to develop and recommend to the Secretary specific regulations which would implement the board's marketing policy. It is logical that the committee should have this authority since it is the agency of the board and the Secretary for administering the order and since it is made up of members and alternates of the board it follows that it will reflect the industry's views. In turn, the Secretary, in administration of the marketing program, looks to the committee as the administrative agency offering a reasonable, accurate reflection of the board and industry considerations and judgments on matters pertaining to the marketing order. The board's marketing policy recommendations should be in sufficient detail, supported by facts pertinent thereto, so that the committee would have an adequate standard in its formulation of regulations thereunder. In turn the committee's recommendations of regulations to the Secretary should also be supported by data and information so that the Secretary will be advised as to the considerations of the committee resulting in the recommendations.

Both the board's marketing policy and the committee's regulations should be made available to the industry as soon as practicable using such media as committee bulletins, press releases, newspapers, radio, television and other media available to the committee. The broad and early dissemination of such information to the industry will allow the industry to make its plans accordingly and, therefore, tend to make the marketing policy and implementing regulations more effective.

It has been indicated previously that the board's marketing policy should be issued in the Fall preceding the marketing year in order to allow all segments of the industry to make their plans. It is anticipated that the committee's regulations implementing that policy would also be issued shortly thereafter. However, in developing such marketing policy and regulations certain of the board and committee considerations will have been based on educated estimates such as the quantity of carryover of turkeys into January and other such factors. Accordingly, it would be advantageous for the board and committee to review its policy and regulation when the actual figures are available. Such a review would also serve to acquaint new members of the board and committee, whose terms start February 1, with the actions of the board and committee.

The act under which authority marketing orders are developed and issued gives the Secretary the ultimate responsibility for the administration and enforcement of a marketing order program. As indicated heretofore, the act authorizes the Secretary to be assisted in the administration of the order by a board and committee composed of industry representatives who may make recommendations concerning the type and methods of regulation available under the order which the Secretary may consider, together with other information, in effectuating the purposes of the order and the act.

The evidence of record submitted by producers, handlers, and related segments of the turkey industry indicates that the volume regulation provisions of the order will contribute to the establishment of stable and orderly turkey marketing conditions as a means of accomplishing the objectives of increasing producer returns to parity.

The proposed marketing order for turkeys as contained in the original Notice of Hearing (26 F.R. 10286) provided for only one method of volume regulation. That was the desirable free quantity with set aside percentages method (Method No. II herein). At the various sessions of the hearing held during the period between Nov. 20 and Dec. 13, 1961, modifications to said proposed order were suggested by all segments of the industry. The modification most universally suggested was that a second type of volume regulation be provided which would equitably apportion the desirable quantity of turkeys to producers. Modifications were also suggested which would give special consideration to producer-handlers, small handlers, small producers, primary or foundation breeders, and educational and other institutions producing turkeys for their own use or for research and educational purposes. Subsequently, the hearing was reopened by a notice of reopening of hearing on January 18, 1962 (27 F.R. 518). Attached to said notice was a draft of a turkey marketing order which incorporated the suggested modifications of the industry. Additional evidence on the original proposals and the modifications were submitted at the reopened hearing held January 29, 30, 31, and February 1, 1962.

Witnesses who testified on the allocation base and allotment method (Method No. I herein) were in essential agreement that the quantity of turkeys which handlers may acquire be apportioned equitably among producers. The evidence supported the concept of making such apportionment to producers by establishing historical bases for each producer and apportioning out the amount of turkeys which handlers may acquire for handling on the basis of such bases. This would result in producers being able to plan their production to meet the desirable quantity of turkeys established by the board and committee, and thereby cut down on any excess production on which they might have difficulty in marketing or which might have to be put in set-aside and bring a lower return than on turkeys produced within the desirable quantity. By use of this system the supply of turkeys handled by handlers can be controlled so as to bring the economic factors of supply and consumer demand into an alignment which would increase producer returns. Such alignment of supply and demand would also obviate the quantity of turkeys in excess of the reasonable demand therefore which in the past has resulted

in disorderly marketing and a lowering of net returns to producers.

The orderly marketing of turkeys, with the objective of increasing producer returns toward parity also requires that the board and the Secretary have the flexibility and authority for meeting different marketing conditions as they arise. The marketing of turkeys has many facets relating to type or variety of turkeys, sex, size, grade, season of the year, and other factors. The effect of such factors on orderly marketing are not exclusive but frequently relate to each other. Accordingly, authority should be provided in the order for the board and committee, with the approval of the Secretary, to adopt programs which recognize the various and changing conditions in the industry. What the variations are and what the changes may be are not always known in advance hence the necessity for providing for such variations and changes in the regulations and for different handling in a different period or periods. The record indicates that the demand for different types, grades, sizes, etc. of turkeys may vary by season, for instance, institutional size turkeys may be in demand in one period and not another. These situations result in fluctuations of the supply-demand cycles of particular types, qualities, sizes, etc. of turkeys within the established desirable quantity which could result in disorderly or disruptive marketing conditions within such desirable quantity. Accordingly, the order provides authority for limiting the handling of turkeys by particular grades, sizes, or qualities of any and all types of turkeys during a specified period of periods and is an essential factor contributing to orderly marketing and increasing producer returns.

A second method of accomplishing equitable volume regulation is provided in the order. This is the establishing of a desirable free quantity of turkeys and providing that turkeys in excess of this quantity be placed in a set aside. The evidence of record indicates that this would also be an effective method to promote orderly marketing and better producer returns. Under this system a desirable free quantity of turkeys will be established by the Secretary and this quantity will be aligned with the estimated demand for the product expected to provide a reasonable return to the producer. If the board or committee ascertains that turkeys are being produced in excess of this quantity they could divide the total production which handlers may dispose of into a percentage free quantity and the balance percentage representing the excess would be placed in the set aside. The excess or set aside would be removed from normal marketing channels. Since the quantity which is in excess of the demand is one of the prime disruptors of orderly marketing, such removal of the excess from normal marketing channels would promote orderly marketing with a consequent increase of producer return.

It has been shown that under the allocation base and allotment system there may be varying demand and other factors which relate to the handling of particular grades, types, sizes, etc., of turkeys which could be a disruptive influence on the orderly marketing of the desirable quantity of turkeys. These same influences could also affect the orderly marketing of turkeys under the desirable free quantity set aside system. Accordingly, provision is made to authorize limiting the handling of turkeys in a manner similar to that provided under the base and allotment system.

Although both systems discussed above could be used exclusive of each other they could also be utilized advantageously in combination. The desirable quantity under the allocation base system and the desirable free quantity under the set aside system can be set at the same level for the marketing year or period(s) within such year. In the event there are fluctuations, seasonal or otherwise, in the supply and demand the set aside features could be utilized to smooth out the fluctuations. In such situations it might be possible in times of excess supply to move such excess into set aside and feed back such excess during periods of short supply. Since it is not possible to anticipate all the ramifications of supply and demand the board and committee may, after a period of operation, be able to utilize the combination of the two systems to cover a variety of marketing situations.

(h) *Methods of volume regulation.* The order provides that the Secretary may establish, upon the recommendation of the board or other available information, volume regulations on turkeys by any one or both of two methods specified if he determines that regulation by such method or methods may tend to effectuate the declared policy of the act. The order further provides that the method or methods so employed may relate to the marketing year or such other period as he may prescribe and may be based on different desirable quantities or desirable free quantities for different types or sizes of turkeys. In order to provide equity among producers, whatever method or methods used must be applied on the same basis in the establishment of allocation bases and allotments, or percentages. However, since the order may become effective after the beginning of the 1962 marketing year, the method of volume regulation in 1962 is restricted to Method II, as defined in the order, and if such volume regulation is saved the board shall give due consideration to regional differences in production. This provision recognizes the impracticability of establishing bases and allotments, as provided in Method No. 1, for application in the 1962 marketing year due to fact that by the time the order is made effective and the necessary information concerning allocation basis is compiled and allotments computed, a substantial part if not the bulk, of production will already be in the process of production. Such time could be more advantageously utilized by the board and committee in 1962 in preparing for making Method No. 1 operative in 1963. Method No. II, however, would not require such extensive preparation on the part of the board and committee and such method could, therefore, be utilized in 1962 if the board so recommends. It is recognized that the marketing of turkeys varies by season and area where produced and, therefore, that at the time Method No. II is initiated, some areas and some producers may not have started marketing, or may have finished marketing. The board is required to give due consideration to these factors when initiating the regulation so as to provide, insofar as possible under the situation, equity among producers and handlers.

Volume regulation of turkeys by Method No. I requires that the committee, on the recommendation of the board and with the approval of the Secretary, establish the desirable quantity of turkeys which all handlers may acquire for handling from producers in a marketing year. The act provides that such desirable quantity to be handled by handlers may be equitably apportioned among producers based upon amounts sold by such producers in such prior period as the Secretary determines to be representative.

It is determined that the years 1959, 1960, and 1961, are representative of the production of producers. These are the three most recent years of production and they adequately reflect the current pattern of production in the turkey industry. The production from any individual production facility may vary from year to year because of weather, the availability of credit, disease, and economic factors such as the price outlook at the time of marketing. However, by using an average of the production and marketings of three years, as provided in the order, a production and marketing figure is obtained which is a fair representation of such production and marketing during the historical base period.

It had been proposed that the years 1957 and 1958 be included as part of the base period. However, it was not shown that such years would actually be representative of the current patterns of production. In fact, to the extent that they do not reflect the full national pattern of increase in contract production they are not representative. A further factor is that credible records of production and marketing may be difficult if not impossible to obtain for those years. Accordingly, the years 1957 and 1958 are not included in the base period.

It has been proposed that allocation bases for the years 1963 and 1964 be established on the basis of each producer's highest production in the years 1959, 1960, or 85 percent of 1961. The 85 percent of 1961 production recognized that the rate of growth in the turkey industry in 1961 exceeded the previous 10-year annual average rate of growth by 15 percent. Testimony on this method of establishing allocation basis clearly demonstrated that this procedure would cause the total of all allocation basis to greatly exceed the actual level of production in 1961, the industry's highest production year. It was pointed out that this would result in serious inequities among producers especially as between producers who had maintained a relatively steady level of production in the base years as compared to those producers who had either increased their

production sharply or decreased their production sharply during the base years. By having a very large total of allocation basis the allotments resulting therefrom would have to be reduced very sharply to the detriment of the producer with a relatively steady level of production. One witness who testified to this possible situation demonstrated that the bases of producers he serviced in the base years would, if this system of determining allocation bases were to apply, result in the sum of such bases exceeding their actual 1961 production by 36 percent, if 1961 production were adjusted to 85 percent, or by 45 percent if 100 percent of 1961 production were used. Averaging the production and marketing for the three-year period reconciles this problem and also tends to provide equitable treatment to all producers.

It has been shown that there are two types or classes of producers involved in the production of turkeys, the producer-grower and the contract-producer. The allocation of bases and allotments recognizes the distinctive contributions to the production process of the two classes of producers and tends to treat producers within each class equitably as to each other and to treat each class equitably in relation to the other.

With regard to producer-growers, in order to be eligible for an allocation base such producer-grower must have produced turkeys in 1961 or in any two of the three years of the base period. It would be inequitable to exclude a new producer who commenced production in 1961, the last year of the base period, from acquiring a base since, by starting production in that year it was necessary to establish production facilities. Without a base such a producer would encounter considerable difficulty in marketing his turkeys. The provision requiring a producer-grower to have produced and marketed turkeys in any two years of the base period is necessary to exclude any person who produced in only one of those years (not including 1961) and is no longer producing turkeys. It would be inequitable to existing producers to apportion a part of the desirable quantity of turkeys to a person who is no longer producing turkeys.

The turkeys to be included in the base computation must be those which are from the production of a producer-grower. This is necessary to preclude a producer from buying turkeys not produced on his production facilities as a means of expanding his base. Otherwise, the total volume of bases would be increased and such increase would not be representative of the producers' pattern of production and marketing which is the purpose of the base system. It would also result in inequitable treatment to other producers since such an increase in the total base, would result in a decrease in their portion of turkeys apportioned from the desirable quantity. Accordingly, only turkeys produced by a producer and marketed to a handler, other producers, or other persons would be included in the computation of such producers' base.

As indicated heretofore, each producer-grower eligible for an allocation base shall have his base determined by dividing the total quantities of turkeys produced and marketed by him in the base period by three (3). Producer-growers whose production of turkeys were marketed in 1961 only or in 1961 and one other of the base years 1959 or 1960, would have their allocation bases determined similarly except that in such cases their production in 1961 would first be adjusted by multiplying such production by 90 percent. This adjustment is necessary in order to treat producers who produced turkeys in all three base years equitably with those who produced turkeys in 1961, and one other base year or in 1961 only.

Turkey production in the United States in 1959 and 1960 was nearly the same but in 1961 increased by 26 percent. This increase is spread over three years when the total production for three years is averaged. However, when the production of only two years is averaged, one of such years being 1961, the 1961 increase is spread over only two years with the result that two year producers would have a proportionately larger base than three year producers. Equating the results of averaging by two years with averaging by three years has the effect of reducing the 1961 production by approximately 10 percent. Requiring, therefore, that producers whose allocation bases were computed on a one or two year period, with 1961 as the year or one of the years, to use 90 percent of their 1961 production in the computation of bases has the effect of bringing into approximate alignment the allocation bases of the one- and two-year producers with the three year producers with the result that all producers receive equitable treatment regardless of the number of years used in the computation of their bases.

Producer-growers who produced and marketed turkeys in which contract-producers had a proprietary interest in two or more years would first determine the quantity of turkeys produced under such an arrangement. One-half of this quantity would be added to turkeys not produced in conjunction with a contract-producer, if any. This sum would then be divided by two or three, whichever is applicable. This provision again recognizes that the purpose of the base system is to provide a means of ascertaining a representative pattern of production and marketing. It recognizes further that a producer-grower who contracted with a contract-producer for only one year out of the base period is not representative of such producers' operations. Accordingly, such provision is applicable only if a producer-grower contracts for two or more years. In the event that more than two producers have a proprietary interest in the production of turkeys, such quantity of turkeys will be divided by the number of producers involved and such quantity, instead of the one-half, should be utilized in the base computation.

With regard to allocation bases to contract-producers in 1963 and 1964, each such contract-producer to be eligible for an allocation base must have had a proprietary interest in the production of turkeys in 1961 or in two or more years of the base period. As in the case of a producer-grower, it would be inequitable to exclude a contract-producer who commenced his contract operations in 1961. However, requiring at least a two-year participation in the proprietary risk of turkey production again recognizes that more than one year's operation is necessary to provide a pattern of operation for allocation base purposes as such a period would evidence his historical association with turkey production.

The contract-producer's allocation base is computed in the same fashion as that of a producer-grower except that the total production in which the contract-producer is involved is divided by two or by the actual number of producers involved, whichever is applicable. This conforms with the definition of producer whereby each of the two classes of producers share in the turkeys so produced and marketed.

Contract-producers are apportioned an allocation base under the order if they had a proprietary interest in the production of turkeys in 1961 or in two of the three base years 1959, 1960, or 1961. The order thus recognizes the historical relationship between the contract-producer and the producer-grower. This historical relationship can only be assured under the order if contract-producers are limited in the way in which their allocation bases can be utilized. Without some limitation, contract-growers could utilize their allocation bases on production facilities then owned or controlled directly or indirectly by them or obtained by them for this purpose. If this should occur, it would result in serious inequities to the producer-grower in that it would cut in half the quantities of turkeys which could be acquired by handlers from such a producer-grower's production and might result in such producer-grower's production facilities producing only one half of its historical production. Such actions would change the historical relationship existing between contract-producers and producer-growers and would be inequitable as to the producer-growers. For these reasons the order provides that handlers may acquire turkeys produced under a contract-producer's base only if such contract-producer utilized a producer-grower's production facilities in producing such turkeys. This requirement would continue the historical relationship between the two classes of producers.

Considerable testimony is in the record favoring a method of establishing allocation bases which would not tend to freeze the current geographic pattern of production. This could be done by providing for a continuing reallocation of bases in the marketing year 1965 and in each marketing year thereafter. In the marketing year 1965 and thereafter whenever a desirable quantity of turkeys which all handlers may acquire from producers has been established each producer's allocation base shall be determined by taking the average of the highest quantity of turkeys produced and marketed by him in any three of the four years immediately preceding the marketing year for which the allocation base is being determined. In the event that a producer or producers cannot or do

not produce up to the allotment which handlers may acquire due to being less efficient or because economic forces in his producing area result in higher cost of production than in other areas, production, over a period of time, will be able to shift from such producers and areas to other producers and areas. This shift will be gradual and the reasons for it will be economic in nature and will be no more than what has occurred over past years. However, by providing for the continuing reallocation of bases, the economic factors which cause shifts in production would be recognized and be provided for.

The order provides that the year 1962 shall not be used in the computation of bases. The testimony at the hearing indicated that for 1962 many producers intended to maintain or even increase their production above the abnormally high production of 1961 in anticipation that 1962 would be used in computing bases under an order and that such level would be maintained even though the experience in 1961 shows that returns to the producer would be the same as 1961 or less. To the extent that 1962 production could be influenced, in part, by producers attempting to make bases, such production would be caused by factors entirely unrelated to the normal economic considerations utilized in planning production. Accordingly, it is concluded that 1962 is not a representative production year and should not be used in the computation of bases.

In addition to not using 1962 as a base year in the computation of allocation bases in 1965 and thereafter it has been determined as advisable to use the allocation base determined for use in 1963 and 1964 as the quantity of turkeys each producer marketed from his production in 1960 and 1961 rather than such producers' actual marketings in these years. The allocation base for each producer in 1965 would be determined by adding together the highest quantity of turkeys in which he had a proprietary interest in any of the three years out of the four years, 1960, 1961, 1963, and 1964. Since two of these years would be prior to the effective date of an order, and hence not affected by the order, and two years would be influenced by the order, it has been determined that equitable treatment of all producers can only be assured by requiring that the actual production and marketing of turkeys in 1960 and 1961 be disregarded and replaced thereby by the established allocation base for 1963 and 1964 when computing allocation bases for 1965 and thereafter. By so doing producers who either had unusually high or unusually low marketings in such years would be treated equitably with all other producers.

It had been proposed that a producer-grower who produced turkeys in conjunction with a contract-producer, and thus had his production split in the apportionment of allocation bases, could, upon application to the committee, have his allocation base adjusted up to the total quantity of turkeys marketed from his facilities in the base years. The purpose of this provision was to allow a producer-grower who contracted to have his allocation base restored to a level comparable to other producer-growers who acquired their allocation bases as independent growers. However, testimony at the final session of the hearing indicated that: (1) The incidence of risk sharing contracting was much greater than had been supposed, (2) the incidence of risk sharing contracting had increased sharply in 1961 relative to a year earlier and, (3) the incidence of risk sharing contracting varied widely as between areas of the country, ranging from almost 100 percent to almost zero. It is clear that the option would result in a gross pyramiding of allocation bases which would be to the detriment of independent producer-growers and would also result in a disproportionate inflation of allocation bases as between one area and another. For these reasons the proposal was not included in the order.

Circumstances may exist which cause a producer's production in one year to be substantially reduced for reasons beyond his control. Such conditions could exist in the case of fire, flood, or other natural damage or when the producer voluntarily ceases production in order to break a disease cycle on his farm or for other sound reasons. Under such circumstances the producer's production is not representative and it would be inequitable to such producers to consider the marketing from such production or lack of production in the calculation of his allocation base. For this reason provision is made for the committee, to revise such producer's allocation base to what the committee determines to be representative of his production and marketing.

A producer-handler is not a producer under the order and therefore is not allocated a base. It is possible, however, that a producer-handler may desire to relinquish his status and become a producer. Provision is made to allow, upon application to the committee, such a producer-handler to be apportioned a base computed upon his past marketing from such production. Allowing the issuance of such bases will not materially affect the allotments to existing producers since the producer-handlers production was considered by the board in setting the desirable quantity.

Persons who do not have a production base history may also acquire bases. However, the quantity of turkeys from which these bases may be apportioned to such persons is limited to that quantity which is the difference between the total of the allotments of the preceding year and the desirable quantity of the succeeding year. This is necessary to prevent new persons from draining away portions of existing producers' allotments. Thus, new producers may enter the industry without causing the marketings of existing producers to be restricted by their entrance.

In submitting an application for an allocation base the new producer must establish an ability to produce. Ability as used in the order contemplates having resources of production. Such resources include not only the land and facilities, but also the finances which are necessary to produce turkeys. The committee, being composed of individuals from the industry are ideally situated to evaluate such new producers' ability.

Computation of allocation bases will be made by the committee based on information supplied by the producer and, in order to allow the committee sufficient time to make the computations before the marketing year starts, such information as is requested for this purpose must be supplied to the committee at least 6 weeks, or earlier if the committee should require, prior to the succeeding marketing year. Since the allocation bases for marketing years 1963 and 1964 will be the same, such information need be supplied only once to cover those years. The committee, or any agency it may select, should have the authority to verify the accuracy of the information submitted by producers for this purpose. If errors are found in the applications the committee should have the authority to correct such errors but should give the applicant reasonable opportunity to discuss with the committee the factors considered in making the correction. The burden of supplying and supporting all information supplied to the committee should rest upon the producers. If errors in application are found and corrections made thereto, such corrections should be reflected in the allotment apportioned to the producer.

Each producer who has an allocation base shall be apportioned an allotment of turkeys which handlers may purchase or otherwise acquire or receive for handling from producers for their account or the account of such producer. In this fashion the total desirable quantity of turkeys established by the Secretary may be apportioned equitably among producers as provided by the Act. Such allotment shall be computed by dividing the desirable quantity of turkeys by the sum of the allocation bases of all producers and then multiplying each producer's allocation base by the resulting percentage figure. In this way each producer will receive his equitable portion of the desirable quantity. The order provides that some means of certification of allotments will be set up by the committee. Under such procedures handlers will be in a position to know whether the turkeys acquired from producers are from the desirable quantity. Such quantities include turkeys produced by a handler in his capacity as a producer. In order to effectuate the purposes of volume regulations, handlers may acquire only that quantity of turkeys so apportioned to the producers and such other quantities of turkeys as specified in the order.

It is recognized that the production and the demand for turkeys may vary within any particular period in a year. The committee should be authorized by the order to take any steps necessary to bring the allotment system in line with such varying production and demand. Accordingly, provision is made in the order to allow the committee to make changes in the quantities of turkeys which handlers may acquire for handling during any period or periods within a marketing year.

In determining the quantities of turkeys which handlers may acquire in such period or periods, consideration shall be given of the seasonal patterns of production of the various regions of the production area. Such consideration is necessary so that the benefits of such regulation may, insofar as possible, be applied to all producers. The committee, because of its make-up and knowledge of the industry, is ideally suited to establish the regions to be affected by this type of regulation.

It will be difficult if not impossible for any producer to produce just the exact quantity of his apportioned allotment. Production is affected by many things including weather, the mortality rate occasioned by the incidence of disease, and other factors. Accordingly, provision is made to allow handlers to acquire for handling from producers an additional quantity of turkeys not exceeding 5 percent of the producer's allotment. In the event such a quantity in excess of the allotment is acquired by handlers from such a producer, however, a volume equal to such excess quantity shall be deducted from the producer's allotment for the next marketing year or period within a marketing year if allotments are apportioned by the committee by period. Conversely, if handlers do not acquire from producers a producer's full allotment for the marketing year or period within a marketing year then a volume equal to such quantity may be acquired from such producer in excess of such producer's allotment for the next marketing year or period within a marketing year. The evidence of record establishes that producers can produce within 5 percent of any set quantity of turkeys. Accordingly, the quantities referred to above which may be carried into the next marketing year or period or deducted therefrom should be limited to 5 percent.

A handler may acquire for handling the 5 percent quantity in excess of the allotment upon certification by the producer that such excess consisted of turkeys from his own production. Turkeys which a producer may have acquired and marketed from sources outside his own production are not included so as to forestall the possibility of handlers acquiring the 5 percent excess from a substantial number of producers within a period which situation could have an adverse affect on the volume regulation purposes of the order. In order that the committee will be aware of the carry-overs the producer and handlers should be required to notify the committee of such carryovers.

Within the industry there are certain specialized functions being performed which are essential to the production of turkeys. One of these functions is that of the foundation or primary breeder. Such a breeder supplies the eggs from which come the poults which are purchased by producers of hatching eggs. Many such foundation breeders have breeding programs tending to establish and develop strains of turkeys which are particularly suitable to satisfy the different institutional uses or consumer preferences. Such programs have resulted in the development of different strains of the so-called bronze and broad white turkey which are heavy type turkeys and also in development of various strains of the smaller Beltsville type turkey. These programs are essential in order to allow the turkey industry to continue to improve the efficiency of production and to compete with other meats and meat products. Accordingly, such programs should not be unduly restricted by the operation of a marketing order and improvement of the strains or breeds of turkeys should be allowed to continue. The general method used in establishing or developing particular strains of turkeys is that of selecting turkeys which exhibit the best of those qualities which are sought to be developed are encouraged and fostered. The birds remaining in the flock after selection and the selected birds after they have performed their function are marketed in the same channels as are other turkeys. Therefore, a foundation breeder, under the terms of the order, would also be a producer and as such would have an allocation base and an allotment computed therefrom. However, in any breeding program the quantity of turkeys which are produced to effectuate such a program may vary from year to year with the particular type of development program conducted by the foundation breeder with the result that a particular quantity of the allotment of a foundation breeder may be such that it will restrict or affect adversely the development program. Accordingly, provision is made to allow the committee to set up procedures by which a producer who is a foundation breeder may market turkeys in excess of his normal allotment which may be acquired by handlers.

The turkey breeding program is such that often there is a fine line of distinction between a foundation breeder who is doing basic research and development on turkeys and a multiplier breeder whose prime function is to take such strains which are developed and produce them in volume to supply the quantity of poults necessary for the needs of the turkey producing industry. Accordingly, the committee is authorized to define by regulation a foundation breeder who will be eligible to take advantage of the provision allowing excess marketings of an allotment to be acquired by handlers.

Witnesses testified that the multiplier breeder may also encounter difficulty in his operations if handlers are restricted in the quantity of turkeys which may be acquired from such multiplier. Multipliers would be producers under the order since they market the breeder hens to handlers after such hens have completed their egg laying function. Multipliers would be allocated a base computed on such marketings. However, it is possible that disease or other calamity may strike a multiplier breeder flock which destroys their ability to lay quality eggs. In such instances the turkeys are suitable for meat purposes but not for egg laying and they are marketed to a handler under the producer's allotment. In order to continue the multiplying function, which is an essential function to the industry, the multiplier would be required to replace the flocks of turkeys disposed of. These birds, after performing their function, would also be marketed to handlers under the multiplier's allotment. In the event such a situation as described resulted in the multiplier having turkeys in excess of the amount handler's may acquire under the allotment, the multiplier may request relief from the committee under the emergency or hardship provision of the order. The committee may grant such relief if it determines such relief is warranted under the circumstances and is convinced that the situation of the multiplier was not brought about as a means of increasing the equitable quantity of turkeys apportioned to such producer which handlers may acquire. Under the order producers marketing replacement flocks to multipliers would have such quantities of turkeys included in base computations.

The transfers of allocation bases are not allowed except under special circumstances. Under the order program the quantity of turkeys which handlers may acquire is related to the quantity of turkeys represented in the allocation bases. New bases can be created only under the conditions set forth in the order. Since the supply of turkeys which handlers may acquire is thereby limited, allocation bases will have some value to producers who may wish to increase the quantity of their production which may be acquired by handlers. Because the capital outlay for turkey production may be relatively small, certainly as regards to the outlay required by most other agricultural commodities, if bases were allowed to be transferred without restriction, it is conceivable that those producers with sufficient resources could, over a period of time, gradually accumulate bases to the extent that such accumulations may have monopolistic tendencies. The order should not foster monopoly, accordingly, transfers of bases are restricted to the situations enumerated in the order.

One of the conditions which would allow the transfer of a base is in the event a producer desires to get out of the turkey producing business and sell his production facilities. The base may be transferred to the person acquiring the facilities. In such instance it is reasonable to allow the producer to dispose of his operation in the same fashion as other going businesses are sold. In this type of transfer the person who acquired the facilities would become the producer and the person disposing of the facilities would lose his status as a producer. Since the transfer of the base in these circumstances would be in conjunction with the transfer of the production facilities, the undesirable accumulation of bases discussed above would not be a serious factor here.

It is also reasonable to allow the allocation base to be transferred to a member of the producer's immediate family in the event of such producers death, retirement, or entry into the military service.

There are also situations where the operation of the facilities is under a partnership or point venture, not including the risk contracting relationship discussed earlier. It is also reasonable to allow one of the partners who desires

to leave the business to transfer his base interest to the remaining partner(s) or to be divided between them if they desire to establish separate production facilities.

In each of these situations where transfers of bases are allowed, the probability of concentration of bases is not significant.

Allotments resulting from bases are allowed to be transferred under procedures set up by the committee. The abuses discussed with regard to bases are not pertinent here because allotments may be transferred only for a marketing year or lesser period. Transfer of allotments could also take care of situations where a producer's facility may be put out of operation by fire, flood, weather, disease, or other calamity, natural or otherwise. This producer should be allowed to make disposition of his allotment until he is again able to produce. It is not to such producer's advantage, however, to transfer his allotment for too great a time since under the reallocation base system in effect in 1965 and thereafter such producer's base would decrease until, if transferred consistently for four years, he would have no base left.

A second means of accomplishing volume regulation which the board and committee may use is that of establishing a desirable free quantity of turkeys which all handlers may freely handle during any period or periods established by the Secretary upon recommendation by the Board. This regulation may be applied alone or in combination with Method No. I, the desirable quantity regulation.

Under the desirable free quantity regulation, designated as Method No. II in the order, all handlers may handle any quantity of turkeys which are acquired from producers subject, however to the set-aside requirement established by the Secretary.

The board and the Secretary will take into consideration the anticipated total volume of turkeys which will be available in the period. If such quantity is greater than the desirable free quantity, then surplus percentage factors may be applied which will have the effect of diverting into a set-aside the turkeys which are in excess of the desirable free quantity. The order provides that each handler will then apply a uniform percentage, established by the committee, to the quantity of turkeys he handles and this percentage of turkeys will be put into the set-aside to be disposed of by the committee.

During the course of any desirable free quantity period, the quantity of turkeys being marketed may be other than was anticipated when the desirable free quantity was established. The difference may be more or less than was anticipated and may be caused by any number of factors including weather and the incidence of mortality. When this happens, the Secretary may determine what change is necessary in the surplus percentage figure in order to effectuate the purpose of volume regulation.

However, the new percentages are applicable only to the remainder of the desirable free quantity period and may not be made retroactive. This restriction is necessary in order to prevent inequitable treatment to handlers, otherwise a handler who has finished his turkey handling for the period would be in the position of not having any turkeys to put in set-aside. Also, a handler of large volume might be required to divert several days' or weeks' production solely into set-aside. Such situations would be too harsh economically on such handlers. During the period when a set-aside is in effect, handlers may only dispose of those turkeys which are of the free percentage.

For the reason indicated in the discussion of Method No. I, the committee may find it necessary to prescribe regulation of the handling of free percentage turkeys by grade, size, type, etc., in order to maintain and promote orderly marketing. Provision is made in the order to allow them to accomplish this objective under Method No. II also.

Since the net proceeds from the set-aside turkeys are to be returned to said producers, or their successors in interest, it is necessary that the handler maintain records of each producer's contribution to the set-aside including the grade, size, type, weight, and other information required by the committee for this purpose.

All set-aside turkeys should be held by the handler for the account of the committee or be disposed of in accordance with the committee's instructions. The handler should be responsible for maintaining such turkeys in good condition, using the minimum of sound handling and storage methods until relieved of such responsibility by the committee. In short, the handler should handle and store such turkeys using sound acceptable commercial methods. The committee should be further authorized by the order to prescribe methods by which set-aside turkeys may be identifiable from other turkeys of the handler. This is necessary for administrative purposes and as a means of ascertaining that the handler is complying with the regulations.

It is anticipated that the committee will establish procedures for storing and disposing of the set-aside so that such turkeys will not have to be held by the handler for any unreasonable length of time. Therefore, upon reasonable notice the handler should commence delivery of the turkeys to the committee at such time, in such manner, and at such rate as may be requested by the committee.

Recognizing that the operations of handlers vary and that each may have varying problems in satisfying the set-aside requirements, the committee may authorize several methods which will allow the handler to apply the set-aside with the minimum disruption of his operations. Some such methods might include allowing the handler to acquire his set-aside turkeys from free percentage turkeys already processed and in storage. This would allow the handler to utilize his entire volume of turkeys handled and still accomplish the purpose of the regulation by withdrawing turkeys from the market which may be freely disposed of. The handler might, under another method, authorize the committee to acquire such turkeys for his account to the same effect.

Because the facilities for storing turkeys by handlers on their premises are very limited and frequently nonexistent, the committee may designate a point or points to which handlers may ship set-aside turkeys. Likewise occasions arise where storage facilities in one location are filled and product must move elsewhere for storage.

Another method which might be utilized to the advantage of the handler would be to allow the handler to process all his set-aside requirements over a period of time at one time, perhaps at the end of a week. This would minimize the disruption of his handling facilities.

The committee, with its handler representation, may develop other such methods for the handling of set-asides by the handler and the order provides the authority for them to do so.

In effecting disposition of the set-aside the committee may find that it is necessary to have the turkeys set-aside by grade, size, or type. This should not encumber handlers to any great extent since such separation is presently being done under their own merchandizing program. Separate pools may also be established on such different grades, sizes or types in order to provide equity among producers whose turkeys make up the pools.

Pooling of turkeys may be accomplished by period. This would establish equity among producers of varying marketing periods. This method would tend to encourage producers to key their production to meet the prevailing seasonal demand for their product and prevent production which is out of line with such demand. However, such pooling periods should not be less than a month because this would be insufficient time to accomplish the above objectives. By the same token, the pooling period should not be more than one year in duration since this would result in a carryover into the next marketing year and would tend to affect the effectiveness of such years' volume regulation.

The order recognizes that the continued existence of a quantity of set-aside turkeys would tend to subvert the purposes of the Act. The order requires, therefore, that the committee dispose of set-aside turkeys as expeditiously as practical consistent with such purposes but in any event not later than August 1 of the following marketing year:

The obligation to set turkeys aside rests with the handler. However, the turkeys set aside are for the account of the producer or his successor in interest. The set aside turkeys, therefore, may be the property of either the producer or the handler. In setting aside the handler could incur costs on turkeys not belonging to him. It is fair and equitable in such circumstances to compensate the handler for such costs. Accordingly, the order provides that the producer whose turkeys are set aside shall bear the costs of the handling and processing. The committee is authorized to establish charges for such services which charges

may be deducted by the handler from any monies owed to the producer.

Distribution of the net proceeds resulting from the disposition of set aside turkeys shall be made by the committee. It had been proposed that such set aside proceeds by apportioned to the handlers according to their pro rata contributions and the handlers were to distribute such funds to the producers according to their contributions to the set aside. Testimony on the subject indicated possible administrative difficulties in such a procedure as; for example, the distribution of proceeds to producers where a handler has gone out of business. Since the committee would likely use electronic tabulating equipment to help maintain records on assessments, allocation basis, etc., it is ideally equipped to make effective distribution of such proceeds directly to producers. The order, however, requires the handler to keep such records, and file such reports with the committee, as are necessary for the committee to make a proper distribution of proceeds.

The committee is charged under the order with the responsibility of disposing of the set-aside. Under the order provisions the committee takes unencumbered title to such turkeys and may dispose of them in the outlets specified. Unencumbered title in the committee is necessary so that disposition of the turkeys by the committee will not be hampered. Any liens which were outstanding at the time the turkeys were set aside do not follow them when they come under the committee's jurisdiction. However, it is equitable that such liens do attach to the net proceeds returned on the set-aside on a pro rata basis.

The turkeys in set-aside may be disposed of by the committee only in a manner which is consistent with the provisions and objectives of the order and regulations issued thereunder. The outlets specified in the order are substantially outside the scope of the usual and normal marketing channels of the industry and disposition in these outlets should not unduly compete with handlers' disposition. In disposing of the set-aside turkeys the committee must always take into consideration the effect of their disposition on the operation of the order. They should take care that their disposition does not unduly compete with the marketing of handlers' free precentage turkeys otherwise the effectiveness of the program will be thwarted. These considerations must apply with regard to disposition in each of the outlets specified in the order but especially as concerns disposition in normal market outlets. Disposition through normal market outlets could be used effectively to even out and adjust supplies moving to market so as to promote orderly marketing. Such operations, however, would be carried out only to the extent feasible and consistent with the purposes of the order.

The order provides that whenever volume regulation Method I is in effect, the committee may allow any producer who voluntarily reduces his allotment a credit against a possible set-aside for all or a portion of the quantity so reduced. The evidence of record indicates some concern on the part of producers that just the possibility of a set-aside on turkeys would make the obtaining of credit more difficult and the credit terms themselves less favorable. The thought was expressed that this possibility could be overcome if producers who voluntarily reduced their production below their allotments could be relieved of having birds subject to set-aside if such a program were initiated. In order to be administratively feasible a producer who elected to reduce his production below his allotment would have to declare his intent prior to the issuance of allotments by the committee in order that the committee could evaluate the total impact of all such elections on the operation of the order. The committee should have the authority to accept such elections in whole or in part, depending on the circumstances. If credits against set-asides are made, handlers would not be required to set aside the quantity represented by the credit and producers would not participate in the distribution of net proceeds from the disposition of set-asides. The producer who made a voluntary reduction and received a credit thereby should not be penalized for so doing by a subsequent reduction, for this reason, in his allocation base. This provision in the order is desirable as it will tend to decrease the quantities of turkey required to be set aside to accomplish the purposes of the order. It will also treat equitably those producers who reduce their production below their allotment with those who do not.

Authorization is provided in the order to allow the committee to require certification of turkeys by grade by any agency or agencies which they may designate. Such authorization is necessary to effectuate any grade, size, or type regulation which may be issued under the order. For instance the board may require under volume regulation that only turkeys of a specified grade, size or type may be marketed in a specified manner. The provision in the order allows the board to accept grade or quality designations made by the Federal Inspection Service, a State inspection agency, a private inspection agency, or any other agency acceptable to the committee.

(i) *Application of provisions.* As indicated heretofore, persons not producer-handlers prior to February 1, 1963, or those who cease to be producer-handlers thereafter, must make application to the committee if they desire to acquire such status. Such producer-handlers and exempt-handlers are exempt from the assessment and volume regulation requirements but are subject to the other applicable provisions including the reporting provisions of the order.

The order recognizes that in some instances there are marketings of turkeys produced for purposes other than commercial marketing. Such instances might be where a Federal, State, or other governmental or private institution produces turkeys for their own consumption. An example of this would be turkeys produced on a State or Federal prison farm or on a farm of a charitable institution. Since such turkeys are usually consumed by the inmates of such institutions and are not usually commercially marketed they would have little or no affect on the purposes of the order. In view of the circumstances under which such turkeys are produced it is, therefore, desirable to exempt them from the volume regulation provisions of the order.

There are also instances where turkeys are produced by organizations and educational institutions primarily for research and educational purposes.

Research and education are beneficial to the industry and since volume regulation might have a tendency to restrict such operations they are exempted from such provisions of the order.

In each of the research, educational and institutional exemptions, however, application for such exemption should be made to the committee. This is necessary so that the committee may make a determination that the turkeys sought to be exempted are reasonable for the purpose stated and, further, that such exemption is not being utilized in an attempt to circumvent regulation of the order. The committee may also find it desirable to have reports filed for much the same reasons discussed under producer-handler and exempt-handler reporting.

Provision is made in the order to allow the committee to grant relief to producers and handlers from certain stated provisions of the order in the event of an emergency, hardship, or inequity to such producer or handler. Such a situation might be the difficulty of a producer who performs the multiplying function discussed heretofore. It is conceivable that a handler could also be the victim of circumstances warranting relief by the committee. It is impossible to anticipate all the situations in the order and the committee, composed of persons having an intimate knowledge of the industry, is in a position to apply the provisions of the order so that all receive the fairest treatment possible.

(j) *Reports and records.* The committee should have authority to require that handlers submit to it such reports and information as are needed to perform its functions. Such reports are necessary in order that the board and committee may have at all times the volume of production and marketing of turkeys. Reports from handlers are also needed so that it can establish the apportions of turkeys which handlers may acquire from producers. In the course of its operation the committee may find that other information is required to enable it to acomplish its functions. Accordingly, it is provided that the committee may require the handler to file other reports containing that information. Under the order designated handlers are exempt from the assessment and volume regulation requirements. However reports relating to the production and marketing of such handlers are necessary so that the board and committee may utilize such information in determining the desirable quantities and also in order to be aware of the effect of such exempt operations on the operation of the order. Such reports are also necessary to determine whether the

operations of such handlers are within the prescribed limitations.

Since it is possible that a question may arise with respect to compliance with the marketing order, each handler should maintain complete records of his handling and disposition of turkeys for a period of not less than 5 years subsequent to the termination of each marketing year. This 5-year requirement is necessary in order to allow effectuation and verification of the procedures by which allocation bases are computed. In the event, however, the committee gives written notice to the handler that the retention of his books and records is necessary in connection with a proceeding under section 608c(15)(A) of the act or a court action specified in the notice, the handler should be required to retain specified books and records for a longer period and until further written notification from the committee.

In order to acomplish verification of reports and to assure compliance, it is further necessary that the agents of the Secretary and the committee have access to the premises and records of the handlers and all handlers are required to make available their records and premises to any such agents during any normal business hours.

Any and all reports and records submitted to the committee, or information which was obtained therefrom, shall remain under appropriate protective classification and be disclosed to none other than persons authorized by the Secretary. The provision in the order relating to confidential information would restrict the members of the committee and board from access to such information since such members are part of the industry and it would be unfair to allow them access to information which could result in such members acquiring a competitive advantage over other handlers and producers. Accordingly, access to such information is restricted to authorized employees of the committee or to the Secretary.

(k) *Compliance with provisions.* Except as provided in the order no handler should be permitted to handle and market turkeys, the handling and marketing of which is prohibited by rules or regulations issued under the marketing order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one handler, although possibly of small impact on the industry as measured by the proportion of turkeys handled by him would, in any appreciable aggregate, tend to impair operation of the program and otherwise render it ineffective.

(l) *Miscellaneous provisions—Supervisory authority.* The Secretary is charged by law with the responsibility for the general supervision of marketing order program. In order to meet such responsibilities it is necessary that the Secretary have knowledge of and approve all regulations of the committee implementing the order. The duty of the Secretary also requires him to exercise supervisory authority over the actions of the board and committee to insure that actions taken are in the public interest, tend to effectuate the act, and are within legal authority. It is conceivable that in assuring the public interest it may be necessary to remove or suspend a person having responsibility in connection with the administration of the order. These provisions are in line with the general principle that the right and responsibility of the Secretary to exercise the powers and duties conferred upon him by law are paramount. It is essential that he preserve such right and responsibility, and the indicated provisions make it clear that he has the right to prevent the board or committee from taking any actions which are not in the public interest, which would be inconsistent with the program, or have the effect of superseding or overriding applicable laws which have been enacted by Congress.

Personal liability. This provision would exempt from personal liability either individually or jointly with others any member or alternate member of the board or committee or any employee or agent of the committee for errors in judgment, mistakes or other acts either of commission or omission, in connection with performance of official duties except for acts of possible dishonesty.

It is essential in programs of this kind which generally involve substantial sums of money and property of considerable value that the members and alternate members of the committee and its employees and agents be protected from personal liability when they are performing their duties. If such provisions as these were not included in the regulation, it might be difficult to obtain competent personnel to operate the proposed program.

Separability. This provision is generally included as a matter of course in marketing agreements and orders, and also appears in most Acts of Congress, particularly those which have been enacted during the last few years. Its purpose is simply to make it clear that in case of any provisions of the marketing order and agreement should be held by a court to be invalid, or if it should hold that the applicability of any such program to any person, circumstance or thing should be invalid, the validity of the remainder of such provisions or applicability thereof to any person, circumstance or thing shall remain unaffected by the holding. These provisions show that in the intent of the proposed regulatory program, in case any of the above things develop, the program will still continue to operate insofar as practicable under the remaining provisions of the program. It is a provision to permit the program to continue to function even though some of it might be declared invalid, either in general or as regards its applicability to a particular person, circumstance, or thing.

Derogation. This provision merely makes it clear that none of the provisions of the proposed regulatory program are, or are intended to be, against or in modification of the rights of either the Secretary of Agriculture or of the United States to exercise any powers or to act in the premises in connection with the powers granted them under the Act or otherwise.

It is essential that the Secretary and the United States retain and preserve all of the rights and powers which are conferred upon them by law. Beyond any question the regulatory program should not, if adopted, be considered as a law which supersedes or overrides any laws which have been enacted by Congress.

These are precautionary provisions to specify the intent of the Secretary of Agriculture and of the United States to retain for themselves all of the rights and powers which are given them by law, not withstanding inauguration of this program.

Duration of immunities. The provision simply provides that the benefits, privileges, and immunities conferred by virtue of this regulatory program shall cease upon the termination thereof except with respect to acts done under it and during the existence thereof. There would, of course, be included any necessary and appropriate acts done during any liquidation period. A typical illustration of the benefits, privileges and immunities which are referred to is provided in Section 608(b) of the Act which specifically exempts appropriate acts taken under a regulatory program of this nature from coverage under the Anti-Trust Laws of the United States.

One of the basic purposes of a program of this nature is to regulate the commodity so as to increase the prices paid for it to the producers to as near the parity level as is reasonably practicable. This is done by the members of the industry acting in concert and through the United States Department of Agriculture pursuant to the authority of the Act. However, in the absence of such a regulatory program, the taking of the same action by members of the industry would presumably raise a serious question with respect to whether they are violating the Anti-Trust Laws in that connection.

Agents. This provision would authorize the Secretary of Agriculture to designate in writing any officer or employee of the United States, or to name any agency or division in the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions of this program.

It is also conceivable that the Secretary may deem it desirable to make special delegations in writing to other officers, employees, agencies, or division of the Department of Agriculture in this regard. As indicated in connection with the definition of Secretary, it would be physically impossible for him to supervise or administer personally all of the programs and other functions assigned to him by this order if passed. The proposed delegatees in this instance are, however, subject to his control and direction, and he would be in particularly good position to correct promptly any abuses of the delegated powers which might arise.

Effective time. This provision merely specifies that the provisions of this regulatory program shall become effective at such time as the Secretary may declare above his signature, and shall continue in effect until terminated.

It is, of course, necessary that the effective date for this regulatory program, as well as for each amendment of such program, be fixed, and it is believed to be reasonable and proper that this action be taken by the Secretary of Agriculture.

Termination or suspension. The provisions of section 608c(16)(A) of the Act require the Secretary of Agriculture, whenever he finds that any regulatory program of this nature, or any provision thereof, obstructs or no longer tends to effectively effectuate the declared policy of the Act, to terminate or suspend this particular action.

Subparagraph (a), therefore, would adopt the same requirement as is set forth in section 608c(16)(A) of the Act. It is not contemplated that suspension or terminating action would be taken by the Secretary except pursuant to said paragraph, or pursuant to paragraph (b) which is discussed below.

Subparagraph (b) would require the Secretary of Agriculture to terminate the provisions of this regulatory program at the end of any marketing year, whenever he finds that such action is favored by a majority of the producers. The Secretary must hold a referendum of producers between October 1 and October 31, 1964, and on even numbered years thereafter if he receives a recommendation from the board requesting such a referendum. The board, being made up in good part by producers, is logically suited to reflect producer sentiment in this regard.

Subparagraph (c) would automatically terminate provisions of the order in the event the applicable provisions of the Agricultural Marketing Act of 1937, as amended, should cease to be in effect. It is obvious that such a program cannot exist after the authority therefor has ceased to be in effect.

Procedure upon termination. If the order should be terminated subsequent to its being put into effect, it is probable that future action will be necessary to collect money which is due, settle any unpaid indebtedness, and dispose of surplus funds or other property, such as office equipment or other production equipment, and in that connection there must be some persons who will have authority to take and complete these actions until there has been a complete liquidation and straightening out of all of the matters in connection with the program. This is a reasonable requirement and it is generally followed as good business practice. The designation of the members of the committee who are functioning as such at this time of termination for the performance of these duties is believed to be logical and a good way of handling this matter. It would be usual in programs of this nature.

Effect of termination or amendment. Unless otherwise expressly provided by the Secretary, any termination or amendment of the regulatory program or any regulation issued pursuant thereto shall not affect or waive any right, duty, obligation, or liability which shall have arisen or which might arise thereafter. Also, that any such action shall not release or extinguish any violation of such regulatory provisions or supplemental regulations, nor affect or impair any rights or remedies of the Secretary of Agriculture, or any other person, with respect to such violation. These provisions will tend to insure that vested rights, duties, obligations, and other liabilities which occurred under the previous regulatory provisions, which were in effect at the particular times, shall operate normally, and that violations which occurred under such previous regulatory provisions can thereafter be prosecuted, much the same as was done before. These provisions of the section are reasonable and necessary to assure that any such termination will not have the effect of precluding or taking the requisite action under the Act.

Amendments. This section provides that amendments to this regulatory program may be proposed from time to time by the committee or by the Secretary of Agriculture. Such a privilege is also bestowed by the provisions of section 900.3 of the rules of practice relating to marketing orders (7 CFR 900.3). However, the proposing of such amendments is not confined to these two but such action may be taken by any other person, such as a producer or handler.

Counterparts. This section would be incorporated in the marketing agreement only. It simply provides that such agreements may be executed in as many counterparts as necessary, and when one counterpart is signed by the Secretary, all parts shall constitute, when taken together, one and the same instrument as if all signatures are contained in the one original.

It is anticipated that each signatory handler will sign a separate counterpart and these provisions are intended to facilitate the signing of the agreement by several handlers. They will avoid the delay of having the same copy signed by all signatory handlers and eliminate the need for the Secretary to sign each copy. This section would also apply to amendments for the same reasons.

Additional parties. This section would also be incorporated in the agreement only and would permit any handler who did not become a party to the agreement originally to become a party by executing a counterpart and delivering it to the Secretary.

The provisions of this section should also permit persons who become handlers after this program is put into effect to join in the agreement, as well as make it possible for all handlers who fail to sign the agreement at the beginning to do so later in case they should so desire.

Even though a handler should fail or refuse to sign the agreement, he would still be subject to regulation under the order, if one is issued by the Secretary of Agriculture. Any person who so becomes a party to the marketing agreement should, of course, be afforded the benefits, privileges and immunities thereof. However, it is reasonable that the latter should be available to a handler before he becomes a party to the agreement by delivery of a signed copy to the Secretary.

Order with marketing agreements. This section which would likewise be applicable to the marketing agreement only is a formal request to the Secretary by handlers who sign the agreement that an order be issued regulating the handling of turkeys as is provided for in the marketing agreement. It is a routine provision which is incorporated in such agreements and expresses the desire of the handlers.

General findings. Upon the basis of the evidence introduced in the hearing and the record thereof, it is found that:

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

(2) The said order authorizes regulation of the handling of turkeys produced in the production area in the same manner as, and is applicable only to the persons in the respective classes of industrial or commercial activity specified in, a proposed marketing agreement and order upon which the hearing has been held;

(3) The said order is limited in its application to the smallest regional production area which is practicable and consistent with carrying out the declared policy of the act and the issuance of several marketing orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of turkeys produced in the production area; and

(5) All marketings of turkeys produced in the production area and of the products thereof are in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Recommended order. The following order is recommended as the detailed means by which the foregoing conclusions may be carried out.

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DEFINITIONS

§ 301.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 301.2 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.).

§ 301.3 Person.

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

§ 301.4 Production area.

"Production area" means the 48 contiguous States of the continental United States and the District of Columbia.

§ 301.5 Turkey.

"Turkey" means that fowl belonging to the family Meleagridae, the genus Meleagris and the species Gallopavo.

§ 301.6 Type or Variety.

"Type" or "Variety" are synonymous and mean such classification of turkeys as the Committee may recommend and the Secretary shall approve.

§ 301.7 Quantity.

"Quantity" means the weight of live turkeys at the time of receipt by a handler or other person determined in accordance with regulations issued by the Committee.

§ 301.8 Processed turkey.

"Processed turkey" means the eviscerated turkey (ready to cook) or the equivalent thereof of New York Dressed or Kosher processed turkey as determined in accordance with regulations issued by the Committee.

§ 301.9 Handle.

"Handle" means the slaughtering or the receiving for slaughter of turkeys in the production area for the production of meat or the acquisition for slaughter or disposition of processed turkey by the slaughterer thereof.

§ 301.10 Handler.

"Handler" means a person who handles turkeys.

§ 301.11 Exempt Handler.

"Exempt handler" means a handler who handles less than a quantity of 7,000 pounds of turkey per marketing year.

§ 301.12 Production facilities.

"Production facilities" means the land, buildings and equipment utilized in the production of turkeys.

§ 301.13 Market.

"Market" means the disposition by a producer of a quantity of turkeys to handlers, producers or other persons.

§ 301.14 Producer.

"Producer" means a person, other than a producer-handler, who (a) operates in a proprietary capacity the production facilities on which a quantity of turkeys in excess of 3,600 pounds are produced in a year, which turkeys are handled by handlers other than exempt-handlers or producer-handlers (such producer may be hereinafter referred to as a producer-grower); or (b) is interested in the production of turkeys by having a proprietary interest in the turkeys produced by a producer-grower (such a producer may be hereinafter referred to as a contract-producer): *Provided*, That for the purposes of this part, if two or more persons are producers with respect to a quantity of turkeys, their respective shares in such quantity of turkeys shall be deemed to be a quantity of turkeys equal to the total quantity of such turkeys divided by the number of persons who are producers thereof.

§ 301.15 Exempt producer.

"Exempt Producer" means a person who operates the production facilities on which a quantity of not more than 3,600 pounds of turkey are produced in a year.

§ 301.16 Proprietary interest.

"Proprietary Interest" means sharing in the risk of loss in the production of turkeys.

§ 301.17 Producer-Handler.

"Producer-Handler" means a person who in his own handling facilities (1) handles a quantity of not more than 100,000 pounds of turkey per marketing year, of which not more than 5,000 pounds of such turkeys are other than his own production, and (2) except for a quantity not in excess of 5,000 pounds does not deliver any turkeys from his own production to others during the marketing year.

§ 301.18 Board.

"Board" means the Turkey Advisory Board established pursuant to this part.

§ 301.19 Committee.

"Committee" means the Turkey Administrative Committee established pursuant to this part.

§ 301.20 Year and marketing year.

"Year" and "Marketing Year" are synonymous and mean the 12-month period beginning February 1 of each year and ending January 31 of the following year, or such other period as may be recommended by the Committee and approved by the Secretary.

TURKEY ADVISORY BOARD

§ 301.25 Establishment and membership.

A Turkey Advisory Board is hereby established, consisting of 60 members, of whom 57 shall be nominated to represent various States and regions, as listed below:

California-Nevada	6
Minnesota	6
Iowa	4
Wisconsin	3
Virginia, West Virginia	3
Missouri	3
Texas	3
Indiana	2
Utah, Arizona	2
Ohio	2
Arkansas	2

North Carolina	2
Colorado, New Mexico	1
Georgia, Florida	1
Washington	1
Oregon	1
New England States	1
Pennsylvania	1
Oklahoma	1
Michigan	1
Nebraska	1
North Dakota	1
Illinois	1
Kansas	1
South Dakota	1
Kentucky, Tennessee	1
New York	1
Delaware, Maryland, New Jersey, District of Columbia	1
Montana, Idaho, Wyoming	1
Alabama, Mississippi, Louisiana	1
South Carolina	1

The remaining three members shall be representative-at-large and shall be selected at the discretion of the Secretary. Each member of the Board shall have an alternate member nominated in the same manner as members.

§ 301.26 Term of office.

Members and alternate members of the Board shall serve for terms of three years ending on the last day of January, and each such member and his alternate shall serve until his successor is selected and qualified; *Provided,* That the term of office of the initial Board shall be three years for one-third of the members and their alternates, two years for one-third of the members and their alternates, and for the remaining one-third of the members and their alternates shall be from the effective date of this part to the last day of January 1963, such staggered terms of office to be determined by the Secretary.

§ 301.27 Nominations.

Nominees for membership on the Board shall be made at one or more nomination meetings called and supervised by the Committee under rules and regulations promulgated by the Committee. Such meetings shall be held in and for each of the states or groups of states specified in § 301.25 and reasonable publicity shall be provided for such nomination meetings by the Committee. Only producers and handlers shall be eligible to vote and each such person shall have but one vote. Voting shall be by secret ballot and may be cast in person or by mail. Three nominations shall be made for each member position, which shall also be deemed nominations for such member's alternate. All nominations should be certified by the Committee to the Secretary as soon as practicable and, after the initial appointment of the Board, no later than January 4 immediately preceding the commencement of the term of office for the position for which a nomination is certified. Such certification shall include for each nominee a brief summary of his experience and association with the turkey industry. For the purpose of obtaining nominations for the initial Board, the Secretary shall perform the functions of the Committee.

§ 301.28 Duties.

The duties of the Board shall consist of selecting from among its members a chairman and other officers, establishing procedures for performing its functions, the making of nominations for membership on the Committee, the certifying of such nominations to the Secretary, the making of recommendations with respect to marketing policy, and the consideration of such other matters as it deems proper or as the Committee or the Secretary may request.

TURKEY ADMINISTRATIVE COMMITTEE

§ 301.30 Establishment and membership.

A Turkey Administrative Committee is hereby established to administer the terms and provisions of this part. Such Committee shall consist of 19 members which shall include the chairman of the Board who shall also be chairman of the Committee. For each member there shall be an alternate member. No person shall be selected or continue to serve as a member or alternate member of the Committee unless he is serving as a member or alternate member of the Board.

§ 301.31 Nomination.

The Board shall nominate from among its members and alternate members 38 nominees for appointment as members and alternate members of the Committee. All such nominations for the Committee shall be certified by the Board to the Secretary as soon as practicable following their nomination.

§ 301.32 Term of office.

Members and alternate members of the Committee shall serve for terms of one year ending on January 31, the initial term beginning with the effective date of this part and ending on January 31, 1963, but each such member and alternate member shall continue to serve until his successor is selected and has qualified.

§ 301.33 Powers.

The Committee shall have the following powers:

(a) To administer the terms and provisions of this part;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary, complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 301.34 Duties.

The Committee shall have among others the following duties:

(a) To act as intermediary between the Secertary and any producer or handler;

(b) To keep minutes, books, and other records which shall clearly reflect all of its acts and transactions and these shall be subject to examination by the Secretary at any time;

(c) To investigate and assemble data on the production, handling, and marketing of turkeys and to make recommendations concerning the issuance of regulations pursuant to this part;

(d) To submit to the Secretary or the Board such available information with respect to turkey hatching eggs and turkeys as may be requested and such other information as the Committee may deem desirable and pertinent;

(e) To select from among its members officers other than the chairman and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(f) To appoint or employ such other persons as it may deem necessary and to determine the salaries and define the duties of each such person;

(g) To cause the books of the Committee to be audited by a certified public accountant at least once each marketing year and at such other times as the Committee may deem necessary or as the Secretary may request, to submit two copies of each such audit report to the Secretary and to make available a copy which does not contain confidential data for inspection at the offices of the Committee by producers and handlers;

(h) To prepare and submit to the Secretary monthly statements of the financial operations of the Committee and to make such statements, together with the minutes of the meetings of said Committee and the Board, available for inspection at the offices of the Committee by producers and handlers;

(i) To give the Secretary the same notice of meetings of the Committee and the Board as is given to members;

(j) To investigate compliance with and to use means available to the Committee to prevent violation of the provisions of this part; and

(k) To establish such rules and regulations as are necessary or incidental to administration of this subpart, as are consistent with its provisions, and as would tend to accomplish the purposes of this subpart and the act.

BOARD AND COMMITTEE

§ 301.36 Selection.

The Secretary shall select and appoint members and alternate members of the Board and the Committee in the numbers and with the qualifications specified in this subpart. Such selections shall, to the extent feasible in the light of the following considerations, be made from the nominations certified by the Committee and the Board: *Provided,* That in making such selections and appointments the Secretary shall give major recognition to turkey producers, including consideration of the size, nature, and location of their production operations, and reasonable handler representation with a view to the extent possible and practicable to have representation from all segments of the industry.

§ 301.37 Failure to nominate.

In the event a nominee for any member or alternate member position is not certified purusant to and within the time specified in this subpart, the Secretary may select an eligible person to fill such position without regard to nomination.

§ 301.38 Qualify by acceptance.

Each person selected as a member or as an alternate member shall, prior to serving, qualify by filing with the Secretary a written acceptance as soon as

practicable after being notified of such selection.

§ 301.39 Alternate members.

An alternate for a member shall act in the place and stead of such member (a) during his absence, or (b) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

§ 301.40 Vacancies.

Any vacancy occasioned by the removal, resignation, disqualification, or death of any member, or any need to select a successor through failure of any person selected as a member or alternate member to qualify, shall be recognized by the Committee certifying to the Secretary a new nominee within 40 calender days.

§ 301.41 Procedure.

All decisions of the Board and the Committee reached at an assembled meeting shall be by majority vote of the members present. All votes in an assembled meeting shall be cast in person and a quorum must be present for a valid decision. A quorum for the Board shall consist of not less than thirty (30) members and for the Committee not less than ten (10) members. Such quorum requirements may be changed by the Secretary, upon recommendation of the Board or Committee. The Committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram, to all such members. When any proposition is submitted to be voted on by such method, it must be favored by not less than fourteen (14) members of the Committee to constitute action by the Committee.

§ 301.42 Expenses and compensation.

The members of the Committee and the Board, and the alternate members, shall be allowed their necessary expenses, actual or per diem, as approved by the Committee, If the Secretary upon recommendation of the Board determines that it is necessary for the efficient and effective operation of the Board or Committee and that the members thereof receive reasonable compensation for their services, such members may receive such compensation at a rate recommended by the Committee and approved by the Secretary.

EXPENSES AND ASSESSMENTS

§ 301.45 Expenses and budget.

The Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of the Board and Committee and for other such purposes, as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The Committee shall file a proposed budget of expenses and rate of assessment with the Secretary as soon as practicable after the beginning of the marketing year.

§ 301.46 Assessments.

Each handler shall pay to the Committee, upon demand, with respect to turkeys handled by him, his pro rata share of all expenses which the Secretary finds are reasonable and likely to be incurred by the Committee during each marketing year. Each handler's pro rata share shall be at a rate of assessment per hundred pounds of processed turkey, fixed by the Secretary, but in no event shall such assessment exceed $.20 per 100 pounds of processed turkey. At any time during the marketing year the Secretary may decrease the rate of assessment or may increase the rate of assessment to cover unanticipated expenses or a deficit in the anticipated quantity of turkeys handled: *Provided*, That no such change in assessment shall be retroactive. In order to provide funds to carry out the functions of Board and Committee, the Committee may accept advance payments from any handler and such shall be credited towards assessments levied pursuant to this section against such handler. The payment of expenses for the maintenance and functioning of the Board and Committee may be required throughout the period during which this part is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative, or whether volume regulation is in effect.

§ 301.47 Accounting.

(a) If, at the end of a marketing year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately and to the extent practicable to the persons from whom it was collected.

(2) The Committee, with the approval of the Secretary, may carry over such excess into subsequent marketing years as a reserve: *Provided*, That funds already in the reserve do not equal approximately one marketing year's expenses. Such reserve funds may be used (i) to defray expenses, during any marketing years, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any marketing year when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate.

(b) All funds received by the Committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided for in this part. The Secretary may at any time require the Committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the Committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the Committee, and shall execute such assignments and other instruments as may be necessary and appropriate to vest in the Committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

(d) The Committee may make recommendations to the Secretary for one or more of the members, thereof, or any other person, to act as a trustee for holding records, funds, or any other Committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the Committee.

RESEARCH DEVELOPMENT

§ 301.50 Research and development.

The Committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, and distribution of turkeys. The expenses of such projects shall be paid from funds collected pursuant to § 301.46.

REGULATIONS

§ 301.55 Marketing policy.

At least once each marketing year the Board shall prepare and submit to the Secretary through the Committee a report setting forth its general marketing policy for such ensuing period or periods as it may deem appropriate. Notice of the Board's marketing policy shall be given promptly by reasonable publicity to producers and handlers. The report shall include any recommendation it may make for regulatory action in such period or periods including the need for any regulations and recommendations with respect thereto dealing in any manner with any of the foregoing or with the authorities for regulation provided by this subpart, as well as data and information used by the Board in formulating the marketing policy. In developing the marketing policy, the Board shall give consideration to the following factors:

(a) The estimated quantity of processed turkeys on hand in the production area at the beginning of such period or periods.

(b) The probable availability of additional turkeys during such period or periods.

(c) The estimated quantity of processed turkeys which should be carried over as a desirable inventory into any succeeding period or periods.

(d) The number of turkey hatching eggs set for hatching or the number of poults placed in such period or periods as will reflect probable availability of

turkeys in the period or periods for which regulation is proposed.

(e) The estimated market requirements for processed turkeys for the period or periods for which regulation may be proposed, including in such estimates as separate items probable trade demands for such turkeys in the various available outlets for such turkeys.

(f) Current prices being received for turkeys and the probable general level of prices to be received for turkeys by producers and handlers.

(g) The trend and level of consumer income and any other factors which may affect consumer demand for processed turkeys.

(h) Any other pertinent factors bearing on the marketing of such turkeys, including the estimated supply or demand for particular types or sizes of turkeys or special problems relating thereto.

Recommendations with respect to specific implementation of the general marketing policy recommended by the Board shall be made to the Secretary by the Committee from time to time, as circumstances warrant, and the Committee's recommendation shall contain the data and information upon which it is based, together with the specific regulatory action recommended.

§ 301.56 Issuance of regulations.

The Secretary shall regulate the handling of turkeys as authorized by this subpart whenever he finds from the recommendations and information submitted by the Board or Committee, or from other available information, that such regulation may tend to effectuate the declared policy of the act. Such regulation may:

(a) Limit the quantity of turkeys all handlers may receive for handling pursuant to § 301.61.

(b) Limit the handling of particular grades, sizes, or qualities of any or all types of turkeys during a specified period or periods.

(c) Fix, or provide methods for fixing, pursuant to sections 301.60, 301.62, and 301.65, free and surplus percentages applicable to the handling of all turkeys handled by handlers and for the pooling of set aside turkeys and the distribution of the proceeds of such pool.

(d) Limit the handling of turkeys differently for different period or periods, for different types, sizes, or any combination of the foregoing for any period.

VOLUME REGULATION

§ 301.60 Volume regulation.

The Secretary may establish, upon the recommendation of the Board or Committee or on other available information, regulation of turkeys for the marketing year or for such period or periods as he may prescribe, by any one or both of the methods hereinafter specified, if he determines that regulation by the method or methods employed may tend to effectuate the declared policy of the act. Such regulation may be based upon different desirable quantities or desirable free quantities for different types or sizes of turkeys; and when such quantities are established for such turkeys, the allocation bases, allotments, or percentages under such regulation shall be equitably apportioned among producers: *Provided,* That if the Board recommends volume regulation for the balance of the year 1962, remaining after this part becomes effective, such volume regulation shall be restricted to Method No. II provided in sections 301.62 and 301.65 and in such event the Board shall give due consideration to the regional differences in production of turkeys.

METHOD NO. I

§ 301.61 Desirable quantity.

Whenever a desirable quantity of turkeys which all handlers may acquire from producers in the marketing year has been established the Secretary shall equitably apportion such quantity among producers by establishing allocation bases and allotments for the marketing year as follows:

(a) *Allocation bases.* Producer-growers and contract-producers shall respectively be apportioned allocation bases for the periods and in the manner set forth below:

(1) Allocation bases of producer-growers applicable for the years 1963 and 1964:

(i) To be eligible for an allocation base each producer-grower must have been a producer-grower in 1961 or in any two of the three years 1959, 1960, or 1961.

(ii) Each producer-grower eligible for an allocation base shall have his base determined by dividing the total quantities of turkeys of his production marketed in 1959, 1960, and 1961 by three (3).

(iii) In the event a producer-grower marketed turkeys in only two of the years 1959, 1960, or 1961 his base shall be computed by dividing the quantities of his production marketed in such years by two (2): *Provided,* That if one of the two years is 1961 then 90 percent of his production marketed in 1961 shall be used in the base computation and

(iv) In the event 1961 was the only year in which a producer-grower marketed turkeys, such producer-grower's allocation base shall be 90 percent of the total quantity of turkeys of his production marketed in 1961.

(v) In the event a producer-grower produced turkeys in conjunction with any contract-producer(s) in two or more of the years 1959, 1960, or 1961 than in computing such producer-grower's base in subparagraphs (ii), (iii) his proportionate share (computed as provided in the proviso in 301.14) of the quantities marketed each year in conjunction with contract-producers shall be added to quantities of turkeys of his independent production marketed, if any, and the resulting sum shall be the producer-growers production and marketing for that year.

(2) Allocation bases of contract-producers applicable for the years 1963 and 1964.

(i) Each contract-producer in order to be eligible for an allocation base must have operated as a contract-producer in 1961 or in two or more of the years 1959, 1960, or 1961.

(ii) Each contract-producer eligible for an allocation base shall have his base determined by dividing one half of the total quantities of turkeys in which he had a proprietary interest which were marketed in 1959, 1960, and 1961 by three (3).

(iii) In the event that a contract-producer had proprietary interest in turkeys marketed in only two of the years 1959, 1960, or 1961 his base shall be computed by dividing one half of the total quantities of turkeys in the two years in which he did have a proprietary interest in such turkeys by two (2): *Provided,* That if one of the two years is 1961 then 90 percent of the quantity of turkeys in which he had a proprietary interest marketed in 1961 shall be used in the base computation.

(iv) In the event more than one contract-producers had a proprietary interest in the quantity of turkeys produced on a producer-grower's production facilities then, for the purpose of computing such contract-producers allocation bases for 1963 and 1964, the quantity of turkeys so produced and marketed shall be divided by the number of producers having a proprietary interest therein.

(3) Producer-grower's allocation bases for the marketing years 1965 and thereafter:

(i) Each producer-grower's allocation base shall be determined by dividing by three (3) the total of the highest quantities of turkeys produced by him which were marketed in any three of the four years immediately preceding the marketing year for which the allocation base is being determined: *Provided,* That in the event a producer-grower produced a quantity of turkeys in conjunction with a contract-grower(s) such quantity shall first be divided by the number of producers having a proprietary interest therein.

(4) Contract-producers allocation bases for the marketing years 1965 and thereafter:

(i) Each contract-producer's allocation base shall be determined by dividing one half of the total of the highest quantities of turkeys in which he had a proprietary interest in any three out of the four years immediately preceding the marketing year for which the allocation base is being determined by three (3).

(ii) In the event more than one contract-producer has a proprietary interest in the quantity of turkeys produced on a producer-grower's production facilities then, for the purpose of computing allocation bases for 1965 and thereafter, the quantity of turkeys so produced and marketed shall be divided by the number of producers having a proprietary interest therein.

(5) In computing the bases for producer-growers and contract-growers for the marketing years 1965 and thereafter, the year 1962 shall not be used for base purposes and, if the years 1960 and 1961 are utilized, the producer's base computed pursuant to subparagraph (a)(1) or (a)(2) shall be deemed to be the producer's quantity of marketings for each of the years 1960 and 1961.

(6) The Committee may provide for adjustment of a producer's allocation base upon a showing that such producer's production and marketings in the appli-

cable base periods provided in subparagraphs (1), (2), (3), and (4) was not representative.

(7) (i) Handlers may acquire turkeys marketed under a contract-producer's base only if such turkeys were produced on a producer-grower's production facilities other than those owned or controlled directly or indirectly by the contract-producer.

(ii) A producer-handler who desires to relinquish his status as a producer-handler, may be apportioned an allocation base by the Committee based upon his past production and marketing in accordance with regulations of the Committee.

(iii) If the sum of the desirable quantity in any marketing year exceeds the sum of the allotments of the proceeding year the Committee may determine a portion of the difference between such sums which may be apportioned to persons who are not producers of turkeys and who can establish that they have the ability to produce.

(b) *Application.* Each producer desiring an allocation base for the marketing year shall, not later than 6 weeks preceding such marketing year, or prior to such date as the Committee may otherwise prescribe, file with the Committee or other agency specified by the Committee an application therefore on forms prescribed by the Committee, which shall supply all pertinent information required by the Committee. The burden of supplying and supporting all such information shall rest upon the producer.

(c) *Committee verification.* The Committee or agency shall check and determine the accuracy of the information submitted pursuant to this section and shall be authorized to make a thorough investigation of any application. Whenever the Committee finds an error, omission, false statement or inaccuracy in any such application, it shall correct the same and shall give the person who submitted the application a reasonable opportunity to discuss with the Committee or agency the factors considered in making the corrections. In the event of correction of a base, the allotment apportioned to the producer pursuant to paragraph (d) of this section shall likewise be corrected.

(d) *Allotments.* Each producer who has an allocation base shall be apportioned an allotment of turkeys which handlers may purchase or otherwise acquire or receive directly or indirectly from the production of such producer for their account or the account of such producer during the marketing year which allotment shall be computed by dividing the desirable quantity of turkeys established pursuant to this section by the sum of the allocation bases of all producers, and multiplying such producer's allocation base by the resulting percentage figure. The result shall be the producer's allotment of the established desirable quantity of turkeys and no handler shall acquire directly or indirectly a quantity of turkeys from the production of any producer (including such handler in his capacity as a producer) which would result in handlers having acquired or received a greater quantity of turkeys from such producer's production than the total quantity so apportioned to such producer, plus such additional amounts as may be specifically provided in this part.

(e) *Certification of allotments.* The Committee may establish by regulation such means of certification or identification with respect to allotments apportioned to producers as may be required to effectuate the purposes of any regulation issued under this part.

(f) *Allotments by period.* Whenever the Board recommends and the Secretary finds that such recommendation may tend to effectuate the declared policy of the Act, he may establish within the marketing year a period or periods within which handlers may acquire a producer's allotment or specified portion thereof. In determining the quantities of turkeys which handlers may acquire in such period or periods, the Board shall take into consideration the seasonal patterns of production by region, such regions to be established by the Committee, and shall apportion such quantities to be acquired by handlers so as to provide equity among producers.

(g) *Allotment adjustment.* (1) In any marketing year or period or periods within such marketing year when allotments are in effect any handler may acquire from a producer's production a quantity of turkeys which will result in the total quantity of turkeys acquired from such producer's production by handlers exceeding such producer's allotment by not in excess of 5 percent thereof: *Provided,* That such producer furnishes the handler with a certification that his total marketings of turkeys during the period, including the excess quantity, consisted of turkeys of his own production only and upon such certification, the producer's allotment for the period shall be deemed adjusted accordingly: *Provided further,* That any handler receiving excess turkeys under these conditions shall make the producer's certification available to the Committee and file such reports relating thereto as the Committee may require and the Committee shall reduce the allotment to be acquired from the producer's production for the ensuing period by the quantity by which is current allotment was adjusted.

(2) If handlers do not acquire from a producer's production such producer's full allotment for the marketing year, or period within a marketing year, then such quantity which was not acquired may, pursuant to regulations issued by the Committee, be added to the quantity which may be acquired from such producer's production during the next marketing year, or period, but in no event shall such quantity exceed 5 percent of the quantity which may be acquired from a producer's production during the marketing year, or in a period within a marketing year.

(h) *Foundation Breeders.* The Committee may establish, by regulation, a definition of a foundation breeder and, notwithstanding the provisions of paragraphs (d) and (f) of this section, if the Committee finds, upon substantial information submitted by a producer who is a foundation breeder, that such producer's apportionment of the established desirable quantity of turkeys is having a substantial adverse affect upon the operation of a sound breeding program, the Committee may adjust such producer's allotment which may be acquired by handlers to the extent necessary to avoid or mitigate such adverse affect. A determination as to whether a producer is a foundation breeder shall be made by the Committee and shall be based upon an application for foundation breeder status, filed with the Committee by the producer, containing such information as the Committee may prescribe, and upon such other information as the Committee may find necessary in order to arrive at its determination.

(i) *Transfers of bases and allotments.* Allocation bases and allotments shall not be transferred except as authorized by regulations issued by the Committee and then only in the following circumstances:

(1) *Allocation bases.* (i) In the event of a transfer of the producer's entire production facilities, the base may be transferred to the person acquiring and continuing the use of such facilities.

(ii) In the event of the death, retirement, or entry into military service of a producer, the entire allocation base may be transferred to a member of such producer's immediate family who carries on the turkey production operation.

(iii) If an allocation base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders or may be divided among them.

(2) *Allotment transfers.* An allotment applicable to a producer or any portion thereof may be transferable to another producer for a marketing year.

METHOD NO. II

§ 301.62 Desirable free quantity.

Whenever a desirable free quantity of turkeys has been established for any period or periods as may be prescribed, all handlers shall handle such turkeys in such period or periods in accordance with the following:

(a) *Free and surplus percentages.* Whenever the Committee concludes that the volume of turkeys which will be available for handling, in a period or periods for which there has been established a desirable free quantity of turkeys, will exceed such desirable free quantity it may recommend to the Secretary that the handling of turkeys in such period or periods be limited by establishing free and surplus percentages applicable to the handling of all turkeys, or the handling of turkeys of any grade, size or quality, or any combination thereof. If the Secretary finds that such recommendation may tend to effectuate the declared policy of the Act he may establish free and surplus percentages applicable to such total handling or of any grade, size, or quality thereof, within such period or periods, which shall total 100 percent of the turkeys to which the percentages apply. If the Secretary determines that such percentages should be modified within any such period or periods, appropriate new percentages may be established: *Provided,* That any

change in the applicable percentages may be applicable only to the remainder of the period and may not be retroctive.

(b) *Set aside.* Whenever free and surplus percentages have been established for a period or periods, each handler shall set aside at such times as the Committee may prescribe, a quantity of processed turkeys computed by multiplying the quantity of all turkeys handled by him in such period by the applicable surplus percentage.

(c) *Set aside by grade, size or type.* The Committee may prescribe by regulation the grade, size, quality, or type of turkeys which shall be set aside to meet the surplus percentage and may require that such surplus percentage be set aside from each lot handled and separate pools may be established for the disposition thereof and the distribution of proceeds: *Provided,* That for purposes of this provision each day's slaughter of each producer's turkeys or of the handler's own turkeys shall be deemed a separate lot. The turkeys handled by a handler which are free quantity turkeys may be disposed of by him in any marketing outlet, subject, however, to any grade, size or quality restrictions otherwise provided by this part.

(d) *Set aside turkeys.* (1) All turkeys set aside to meet the handler's set aside obligation shall be held by the handler for the account of the Committee in compliance with regulations of the Committee until the handler has been relieved of such responsibility by the Committee. Such set aside turkeys shall be free and clear of all liens: *Provided,* That any liens which were outstanding at the time turkeys were set aside shall be subject in every way to this order and the regulations thereunder, and any lienholder with respect to such lien shall, to the extent of such lien, be deemed an assignee of a pro rata interest in the net proceeds of the applicable pool of set aside turkeys.

(2) The handler shall hold such turkeys in storage, in such facilities and under such storage conditions as the Committee may prescribe.

(3) Set aside turkeys shall be labeled or otherwise marked in such manner as the Committee may prescribe so as to be identifiable at all times and shall be subject to inspection by the Committee or its representatives at all times.

(4) Upon reasonable notice by the Committee, a handler shall commence delivery to the Committee or its designee of any or all set aside turkeys held for the account of the Committee and at such rate as may be prescribed.

(5) Handlers shall use good commercial practices in caring for set aside turkeys and be liable to the Committee for losses of set aside resulting from lack of due care.

(6) The Committee may, by regulation, authorize methods, other than processing and storage by which a handler may comply with his set aside requirements. Some such other methods might include, but are not limited to the following:

(i) The Committee may allow the handler to purchase other handlers free percentage turkeys to fulfill his set aside requirement.

(ii) The Committee may, upon authorization and payment from the handler, purchase free percentage turkeys to fulfill the handlers set aside.

(iii) The Committee may designate in advance a point or points of delivery to which the handler may ship set aside turkeys whenever he has set aside commitments.

(iv) The Committee may allow the handler to satisfy his set aside requirements for a period or periods by setting aside at a time or times specified by the Committee, the aggregate of his set aside requirements rather than meeting such requirements out of each day's processing.

(e) *Title.* The Committee, with respect to turkeys set aside for the account of the Committee, shall be deemed to have title thereto as trustees and is authorized to negotiate loans on such set aside surplus turkeys for the purpose of paying the expenses relating thereto, or for making advance payments, or both.

(f) *Pooling period.* A pool of set aside turkeys shall consist of surplus percentage turkeys set aside by handlers during any period or periods as may be prescribed, but any such period shall be not less than one month nor more than one year in duration: *Provided,* That a pool may include surplus turkeys from one or more set aside periods within a marketing year.

(g) *Handler compensation.* Each handler shall be compensated for processing and other costs relating to the surplus percentage set aside of turkeys as the Committee may deem to be appropriate, in accordance with charges established at the beginning of the marketing year by the Committee with the approval of the Secretary. Such costs shall be borne by the producers, or their successors in interest, and may be deducted from any monies owed by handlers to such persons.

(h) *Committee disposition of set aside.* The Committee shall have the power and authority to sell and dispose of, or use any agency approved by the Secretary to dispose of any and all set aside turkeys upon the best terms and at the highest prices attainable consistent with the provisions and objectives of this part, but only in the outlets specified in subparagraph (1) of this paragraph.

(1) *Outlets.* The Committee may sell or dispose of set aside turkeys in the following outlets:

(i) By sales for disposition in export,

(ii) By direct sale to any agency of the United States Government,

(iii) In other outlets which the Committee may specify by regulation to be substantially noncompetitive with those for normal outlets for turkeys, or

(iv) To the extent feasible and consistent with the purposes of this part, the Committee with the approval of the Secretary may, through handlers or handlers' sales agency or otherwise, sell or dispose of set aside surplus turkeys in any other outlets, including any normal outlets for turkeys.

(2) The Committee shall make disposition of surplus turkeys in each pool as expeditiously as practicable consistent with the provisions and objectives of this part, and in any event not later than August 1 of the following marketing year.

(i) *Distribution of net proceeds.* The Committee shall distribute the net proceeds from the disposition of any pool of set aside surplus turkeys, after deduction of any expenses incurred by the Committee for the receiving, handling, holding, or disposition thereof, to the producers, or their successors in interest, pro rata on the basis of the quantities of their respective contributions to the set aside contained in such pool.

(j) *Equity holders.* So that the Committee may determine each producer's or his successor's or assignee's interest or equity in the turkeys in the set aside, each handler who sets aside turkeys to meet his surplus percentage shall, as required by the Committee, determine, or cause to be determined, the size, grade, quality, type and quantity of turkeys so set aside which were received from each producer thereof, together with the name and address of such producer, or his successor in interest, and any other information which the Committee may require to identify all producers of the turkeys so set aside and transmit such information to the Committee.

(k) *Prohibition against disposition.* Except as provided herein, set aside turkeys shall not be used or disposed of by any handler.

(l) *Set aside credit.* Whenever Method No. I is in effect the Committee may allow, by regulation, to any producer who voluntarily, prior to the beginning of a marketing year, agrees to market less than his allotment, a credit for all or a portion of the quantity of the reduction and the allotment apportioned to him shall be reduced in a like amount in such marketing year. In such event (a) the handler shall not be required to set aside such quantity of the producers' turkeys as is represented by the credit, (b) such producer shall participate in the distribution of set aside net proceeds only to the extent of his actual contribution to the set aside and (c) the Committee shall include such credit in computing such producer's future allocation base.

CERTIFICATION FOR GRADE OR QUALITY

§ 301.65 Certification for grade or quality.

Whenever, for any period or periods, regulations are in effect which require the determination of grade or quality of turkeys, the Committee may, by regulation, require each handler to provide certification of the grade or quality of such turkeys by such agency or agencies and on such forms or certificates as are prescribed by the Committee.

APPLICATION OF PROVISIONS

§ 301.68 Application of provisions.

(a) *New producer-handlers.* Starting February 1, 1963, any person not then a producer-handler or who ceases to be a producer-handler thereafter must make application to the Committee if he desires such status. In determining whether to approve such applications, the Committee may determine the effect of producer-handlers on the volume regulation provisions of the

order and may refuse to approve applications for such status if they determine that additional producer-handlers may adversely effect the operation of such volume regulation.

(b) *Exemptions*—(1) *Producer-handlers.* Sections 301.46, 301.56, 301.60, 301.61, except 301.61(a)(7)(ii), and §§ 301.62 and 301.65 shall not apply to producer-handlers.

(2) *Exempt-handlers.* Sections 301.46, 301.56, and 301.60 through 301.65 shall not apply to exempt-handlers.

(3) *Research, educational and institutional exemptions.* The Committee may, by regulation, exempt from the application of §§ 301.46, 301.56, 301.60 through 301.65 turkeys produced by Federal, State, or other governmental or private institutions for their own consumption, and also turkeys produced by persons, other than foundation breeders, for research and educational purposes, upon application to the Committee and a determination by the Committee that the quantity of turkeys sought to be exempted are reasonable for the purposes stated.

(c) *Emergency or hardship relief*—(1) *Producer relief.* Notwithstanding the provisions of paragraphs (d), (f), and (g) of § 301.61, the Committee may grant relief from such provisions by way of adjustment of allocation base or allotment to a producer applying for such relief if the Committee determines that an emergency condition exists or that unless such relief is granted the provisions will create extreme hardship or inequity to such producers. One of the factors the Committee shall consider in making its determination is whether the condition causing such emergency, hardship or inequity was caused by circumstances beyond the applicant's control or beyond his reasonable expectation.

(2) *Handler relief.* Notwithstanding the provisions of § 301.56, paragraphs (d), (f), and (g) of § 301.61 and paragraphs (a), (b), (c), (d), and (l) of § 301.62, and § 301.65, the Committee may grant relief from or adjustments under such provisions if the Committee determines that an emergency condition exists or that unless such relief is granted the provisions will create extreme hardship or inequity to such handler. One of the factors the Committee shall consider in making its determination is whether the condition causing such emergency, hardship or inequity was caused by circumstances beyond the handler's control or beyond his reasonable expectation.

Reports and Records

§ 301.70 Reports.

(a) *Regular monthly reports.* At a time and in a manner prescribed by the Committee, each handler shall file reports with the Committee on forms prescribed by the Committee and approved by the Secretary, relating to his handling of turkeys for the preceding month, and providing such information with respect thereto as the Committee may prescribe.

(b) *Other reports.* Upon the request of the Committee, each handler shall furnish to the Committee reports containing such other information as the Committee may determine to be necessary to enable it to exercise its powers and perform its duties under this part.

(c) *Exempt-handler and producer-handler reports.* Each handler exempted under § 301.68(b) shall make reports at such times and in such manner and containing such information as the Committee may request.

§ 301.71 Records and facilities.

Each handler shall maintain and make available to the Committee or to its representative during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the Committee to verify or establish the correct data which are required to be reported pursuant to this part and the payments required pursuant to this part.

§ 301.72 Retention of records.

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

§ 301.73 Confidential information.

All reports and records furnished or submitted to the Committee, or obtained by the employees of the Committee, which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler from whom received, shall be treated as confidential and the reports and all information obtained from records shall at all times be kept in the custody and under the control of one or more employees of the Committee, who shall disclose such information to no person other than the Secretary.

Compliance

§ 301.75 Compliance.

Except as provided in this subpart, no handler shall handle turkeys, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle turkeys except in conformity to the provisions of this subpart or the rules and regulations thereunder.

Miscellaneous Provisions

§ 301.80 Supervisory authority.

Regulations implementing this order shall be approved by the Secretary prior to being made effective. Nothing in this order shall impair the Secretary's right to take such action as necessary to carry out his responsibility to insure that actions taken are in the public interest, tend to effectuate the purpose of the act, and are within legal authority. Any person having responsibilities in connection with the administration of this order may be removed or suspended by the Secretary at his discretion if he concludes such action to be in the public interest.

§ 301.81 Personal liability.

No member or alternate member of the Committee or Board, nor any employee, representative, or agent of the Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person, for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, representative, or agent, except for acts of dishonesty.

§ 301.82 Separability.

If any provision of this subpart, is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 301.83 Derogation.

Nothing contained in this subpart, is or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 301.84 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart, shall because upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 301.85 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any service, division or branch in the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions of this subpart.

§ 301.86 Effective time.

The provisions of this subpart, or any amendments thereto, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated or suspended in one of the ways specified in this subpart.

§ 301.87 Termination or suspension.

(a) *Failure to effectuate policy of act.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this subpart.

on or before the 30th day of January of any marketing year whenever he is required to do so by the provisions of section 8c(16)(B) of the Act. The Secretary may, at any time he deems it desirable, hold a referendum of producers to determine whether they favor termination of this subpart. However, the Secretary shall hold a referendum of producers between October 1 and October 31, 1964, to determine whether they favor termination of this subpart and thereafter shall hold a referendum for the same purpose between October 1 and October 31 of each subsequent even numbered year if the Secretary receives recommendation from the Board requesting the holding of such a referendum. The results of such a referendum shall be announced by the Secretary by November 30 of any marketing year in which held.

(c) *Termination of act.* The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 301.88 Procedure upon termination.

Upon termination of this subpart, the members of the Committee then functioning shall continue as joint trustees, for the purposes of liquidating the affairs of the Committee. Action by such trustees shall require the concurrence of a majority of said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all the funds, properties, and claims vested in the Committee or the joint trustees, pursuant to this subpart. Any person to whom funds, property, or claims have been transferred or delivered by the Committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of said Committee and upon said joint trustees.

§ 301.89 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this subpart or any regulation issued under this subpart, or (b) release any set aside held for the account of the Committee nor permit its disposition contrary to the provisions of this subpart, or (c) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (d) affect or impair any rights or remedies of the Secretary, or any other person, with respect to such violation.

§ 301.90 Amendments.

Amendments to this subpart may be proposed, from time to time, by any person or by the Committee.

PROVISIONS APPLICABLE ONLY TO PROPOSED MARKETING AGREEMENT

§ 301.100 Counterparts.

This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ 301.101 Additional parties.

After the effective date of this agreement, any handler may become a party hereto if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 301.102 Order with marketing agreement.

Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of turkeys in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the Act, such order.

Dated: February 23, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62-1951; Filed, Feb. 26, 1962; 8:52 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that petitions (FAP 687 and 688) have been filed by Continental Can Company, Inc., 633 Third Avenue, New York, New York, proposing the issuance of amendments to § 121.2514(b)(3)(xv) and § 121.2526(b) of the food additive regulations to add the item "Vinyl chloride-acetate, hydroxyl-modified copolymer, reacted with trimellitic anhydride".

Dated: February 19, 1962.

J. K. KIRK,
Assistant Commissioner of Food and Drugs.

[F.R. Doc. 62-1908; Filed, Feb. 26, 1962; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 61-FW-35]

FEDERAL AIRWAYS AND CONTROLLED AIRSPACE

Proposed Designation of Federal Airway and Associated Control Area

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Parts 600 and 601 of the regulations of the Administrator, the substance of which is stated below.

The FAA has under consideration the designation of low altitude VOR Federal airway No. 525 from the Fayetteville, N.C., VOR to the New Bern, N.C., VOR via the Fayetteville VOR 098° and the New Bern VOR 256° True radials. This intersection would coincide with the Kenansville Intersection (INT of the Kinston, N.C., VOR 215° and the Fayetteville VOR 098° True radials).

A direct off airway route had been approved between Fayetteville and New Bern and many suggestions for an airway to serve this route have been considered in the recent past. This proposed action would provide an airway between two cities which are certified as permanent air carrier stops. Designating the airway via the Kenansville Intersection would add but two miles of airway routing between the termini; would provide a common intersection with low altitude VOR Federal airways Nos. 213 and 1 west, and would minimize conflict with Air Force operations at Seymour-Johnson AFB.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Adminstrator, Southern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 52 Fairlie Street, Atlanta 3, Georgia. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on February 19, 1962.

CLIFFORD P. BURTON,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 62-1890; Filed, Feb. 26, 1962; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Dockets Nos. 14475, 14476, 14477]

ALLOCATION OF FREQUENCY BANDS FOR RADIO ASTRONOMY

Order Extending Time for Filing Comments and Reply Comments

In the matters of amendment of Part 2 of the rules and regulations to modify the existing frequency allocation provisions for the radio astronomy service; amendment of Part 2 of the Commission's rules and regulations to insert provisions for the notification of the International Telecommunication Union relative to radio astronomy observatories and frequencies involved.

The Commission has before it for consideration a petition filed by Mann-Russell Electronics, Inc., requesting an extension of time for filing comments in the above-entitled proceedings from February 16 until March 13, 1962; and a petition filed by Forest Industries Radio Communications requesting an extension of at least 30 (but preferably 60) days for filing comments in Docket 14475.

It appearing that Mann-Russell is accumulating information concerning the present and prospective use of 13.56 and 40.68 Mc/s by ISM equipment, and that additional time is required to accumulate and evaluate this information; and

It further appearing that Forest Industries requires additional time in which to coordinate the position of the forest industry with regard to the use of 13.56 and 40.68 Mc/s; and

It further appearing that information to be furnished by Mann-Russell and Forest Industries will be useful to the Commission in resolving the issues in these proceedings and that the public interest will be served by granting an extension of 25 days for the purpose of obtaining such information; and

It further appearing that comments filed under any further extension would be too late for consideration in formulating a national position on this subject;

It is ordered, This 20th day of February, 1962, pursuant to section 0.322(b) of the Commission's Statement of Organization, Delegations of Authority, and Other Information, That the time for filing comments in these proceedings concerning use of the frequencies 13.56 and 40.68 Mc/s is extended to March 13, 1962, and that the time for filing comments in reply thereto is extended to March 23, 1962.

Released: February 21, 1962.

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

[F.R. Doc. 62-1945; Filed, Feb. 26, 1962; 8:51 a.m.]

[47 CFR Part 3]

[Docket No. 14495; RM-295]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS (ELMIRA, NEW YORK)

Order Extending Time for Filing Comments

1. The Commission has before it a request from Gannett Co., Inc., filed February 15, 1962, for a 30-day extension of time for filing comments and reply comments in the above-entitled proceeding. The time for filing comments now expires on February 19, 1962, and for reply comments, on March 5, 1962.

2. Petitioner states that it is making a study of the Elmira area to determine the feasibility of establishing a UHF commercial station there at this time. As grounds for the extension of time requested, it asserts that its study is not yet complete and that it cannot file meaningful comments on the proposal we are considering herein—to shift Channel 30 from Elmira to Corning-Elmira for noncommercial educational use—until its conclusion.

3. In light of the considerations advanced by petitioner, the Commission believes that extending the closing date for the submission of comments will contribute to the filing of more complete and helpful comments on the proposal under consideration herein and is warranted in the public interest.

4. *Accordingly, it is ordered,* This 9th day of February 1962, That the request of Gannett Co., Inc., for extension of time is granted, and that the time for filing comments in this preceeding is extended from February 19, 1962, to March 22, 1962, and the time for filing reply comments is extended from March 5, 1962, to April 5, 1962.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.241(d)(8) of the Commission's rules.

Adopted: February 19, 1962.

Released: February 20, 1962.

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

[F.R. Doc. 62-1946; Filed, Feb. 26, 1962; 8:51 a.m.]

[47 CFR Part 3]

[Docket No. 13458; RM-92; FCC 62-197]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS, (SYRACUSE, NEW YORK)

Report and Further Notice of Proposed Rule Making

1. The Commission has before it for consideration a proposal set forth in its Notice of Proposed Rule Making (FCC 60-358) adopted on April 8, 1960, and published in the FEDERAL REGISTER on April 14, 1960, (25 F.R. 3216). This proposal was made in a petition filed by the Springfield Television Broadcasting Corporation (RM-92) suggesting that Channel 37 be deleted from Clymer, New York, and assigned to Syracuse, New York, as follows:

City	Channel No.	
	Present	Proposed
Syracuse, N.Y.	3-, 8, *43+	3-, 8, 37-, *43+
Clymer, N.Y.	37	

PARTIES FILING COMMENTS AND REPLY COMMENTS

2. Comments filed herein fall into two categories: (1) those filed by organizations primarily interested in broadcasting, and (2) those filed by parties interested mainly in the science of radio astronomy.

3. Organizations in the broadcasting industry which filed comments were American Broadcasting Company (ABC); W. R. G. Baker Radio and Television Corporation, successor to "the Syracuse Group" mentioned in the Notice of Proposed Rule Making herein (Baker); Meredith Syracuse Television Corporation, licensee of Station WHEN-TV in Syracuse (Meredith); and the Springfield Television Broadcasting Corporation (Springfield). Reply comments were submitted by Springfield and by the Association of Maximum Service Telecasters, Inc. (AMST).

4. Comments were also filed by the following groups concerned primarily with the science of radio astronomy: the American Astronomical Society; Associated Universities, Inc.; the Department of Terrestrial Magnetism, Carnegie Institution of Washington; Cornell University; the University of Florida; the University of Illinois; the National Academy of Science; the Observatory of Rensselaer Polytechnic Institute; and Yale University.

PRESENT STATUS OF THE CHANNELS INVOLVED

5. In Syracuse, Channel 3 is presently used by Station WSYR-TV, and Channel 8 is used by Station WHEN-TV. A construction permit has been issued for educational Channel 43, but the station has never been on the air. Channel 37 was shifted from Auburn, New York, to

Clymer (1950 population, 1421) in 1956 upon the representation that it would be used as a satellite station, but no application for the channel has been made. In the Report and Order of the rule making proceeding in Docket No. 13858 adopted on July 27, 1961, Channel 5 was substituted for Channel 8, the licensee of Station WHEN–TV having consented to the change (although the station is not yet operating on Channel 5), and Channel 9 was "dropped into" Syracuse as a third VHF channel.

PRELIMINARY DECISION OF THE COMMISSION

6. The Commission has carefully considered the comments in this proceeding and is of the opinion that, inasmuch as a third VHF channel has now been assigned to Syracuse, the situation in which the previous comments were submitted has changed and that further comments pertaining to the desirability of adding a UHF channel to Syracuse should be invited. In addition, in the event that a decision should be made to assign a UHF channel to Syracuse, we wish to explore the possibility of effecting such an assignment by means of the following substitute proposal:

City	Channel No.	
	Present	Proposed
Syracuse, N.Y.	3–, 5–, 9–, 33–, *43+	3–, 5–, 9–, *43+
Batavia, N.Y.	33–	
Watertown, N.Y.	48	

These reassignments would meet the mileage separation requirements of the rules. Unless an active interest is manifested, we find it desirable in the public interest to defer action on making available substitute UHF channels for Batavia and Watertown, New York, until decisions are reached in Docket No. 14229 concerning the future methods of assigning stations on UHF channels.

7. It should be noted that Syracuse is located less than 250 miles from the Canada-USA border and assignments to that community fall within the purview of the Canada-USA television agreement. Appropriate steps thereunder will be undertaken by the Commission.

REASONS FOR THE DECISION: ASSIGNMENT OF A UHF CHANNEL TO SYRACUSE

8. The Comments set forth by broadcasting interests in paragraphs 9 through 12 below were submitted at a time when there were only two VHF channels assigned to Syracuse.

9. Springfield indicated an intention to apply for a construction permit and operate on Channel 37 if it were assigned to Syracuse. Comments from the broadcasting industry pointed out that experience has repeatedly shown that a UHF station cannot successfully compete with two VHF stations in the same market and that therefore the introduction of a UHF station to Syracuse would not satisfy the need for a third competitive service. Baker therefore urged that the Springfield proposal be denied, and urged consideration of the VHF proposal for Syracuse submitted by "the Syracuse Group" (RM–22). ABC urged that, regardless of the disposition of the Springfield proposal, the Commission press forward as promptly as possible to the allocation of a third VHF channel to Syracuse by means of the plans set forth in RM–16 (proposal of ABC), RM–22 (proposal of "the Syracuse Group"), or some other appropriate plan.

10. Springfield admitted the difficulties involved, but asserted its willingness to assume the risk of the competitive situation stating that its failure would injure only its stockholders. It further asserted that addition of Channel 37 to Syracuse offered the quickest solution to the problem of providing a third commercial service to Syracuse, and that adoption of the proposal would facilitate construction and operation of the educational television channel now assigned to Syracuse.

11. Meredith asserted that a UHF permittee would attempt to obtain a VHF authorization or would attempt to have Syracuse deintermixed.

12. "The Syracuse Group" stated that the nearest UHF stations were in Elmira and Binghamton, over 60 miles from Syracuse. Baker asserted that a diligent search by its officers had revealed no UHF receivers in Syracuse. Meredith further asserted that it would not be in the public interest to encourage purchase of UHF receivers and antennas for what at best would be a highly temporary operation.

13. Syracuse, generally ranked as about the 50th market in the country, has a population of 216,038, and Onandaga county in which it is located has a population of 423,028 (1960 U.S. Census). That there was a need for a third competitive VHF channel in that market we made clear in the aforementioned Report and Order in Docket No. 13858 which assigned such a channel to Syracuse. In the light of this assignment, the views expressed in the immediately aforementioned comments of the broadcasting interests, including Springfield, may have changed. If so, the Commission would like the benefit of any modification of thinking before arriving at a final decision in this proceeding. It is for this reason that further comments on the desirability of adding a UHF channel to Syracuse are invited.

REASONS FOR THE DECISION: THE INTEREST OF RADIO ASTRONOMY AND THE SUBSTITUTE PROPOSED AMENDMENT

THE INTEREST OF RADIO ASTRONOMY

14. The comments of organizations concerned with the science of radio astronomy, which are here treated together, state that:

(1) Radio astronomy is an important new science and is the source of data concerning the universe which cannot otherwise be obtained.

(2) It is important, for the purpose of radio astronomy, to study the varying characteristics of radiation throughout the radio spectrum, including that portion of the spectrum in the neighborhood of 600 Mc.

(3) Only a clear band of frequencies can provide the needed protection. Modern radio telescopes are designed to receive extremely weak signals from outer space. A powerful, continuous man-made signal, as provided by a single television broadcasting station, and augmented by the scatter effect of large communications satellites and other airborne objects, would seriously interfere with radio astronomy observations on the same frequency band anywhere in the United States.

(4) The clear band of frequencies in this portion of the spectrum is required on a world-wide basis. It is important for the purposes of radio astronomy to compare observations made on the same frequency in different parts of the world.

(5) The 606–614 Mc band is the only band of frequencies between 410 and 1400 Mc for which there is any hope of obtaining international cooperation in maintaining low interference levels for radio astronomy.

15. In addition to the above, Carnegie, Cornell, Illinois, Rensselaer, and Yale indicated to the Commission certain specific research projects, present or planned, which would suffer interference from operations on Channel 37 in Syracuse.

16. Groups concerned with radio astronomy urge that the Springfield petition be denied. Some of them urge that a UHF channel other than 37 be assigned to Syracuse. Several of the organizations request that, in the alternative, action upon it be held in abeyance until it can be considered in conjunction with the request for proposed rule making submitted by the University of Illinois on May 6, 1960, to delete from the Table of Assignments Television Channel 37 (608–614 Mc) and allocate this channel to Radio Astronomy (RM–180). The Association of Maximum Service Telecasters which opposes reservation of Channel 37 for Radio Astronomy maintains that the proposal of the University of Illinois is not in issue in the instant proceeding and requests that those portions of the Illinois comments which propose that Channel 37 be removed from television broadcasting and allocated to Radio Astronomy be rejected. Springfield sets forth reasons against deletion of Channel 37 from television broadcasting.

THE SUBSTITUTE PROPOSED AMENDMENT

17. In a Memorandum Opinion and Order released on March 13, 1961 (RM-180, FCC 61–327), we denied the aforementioned petition of the University of Illinois to allocate Channel 37 to Radio Astronomy. Subsequently, the University filed a Petition for Reconsideration which is being held in abeyance by the Commission until it is considered in conjunction with action on Docket No. 11997. In the light of this situation, we believe it best to inquire whether it is feasible to assign a UHF channel other than 37 to Syracuse. To this end, we propose to examine the possibility of assigning Channel 33 to Syracuse as indicated in the substitute proposed amendment set forth in paragraph 6

above. Decision on whether to assign Channel 37 to Syracuse in accordance with the proposal of Springfield, or to assign Channel 33 in accordance with the substitute proposed amendment, or to take other action such as, for example, assigning no UHF channel to Syracuse, will be deferred until further comments have been received.

18. Comments are invited on the desirability of assigning a UHF channel to Syracuse and on the substituted proposal amendment set forth in paragraph 6 above.

PROCEDURE FOR FILING COMMENTS

19. Authority for the adoption of the amendments proposed herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

20. Pursuant to applicable procedures set out in § 1.213 of the Commission's rules, interested parties may file comments on or before March 20, 1962, and reply comments on or before April 2, 1962. In reaching its decision on the rules and standards of general applicability which are proposed herein, the Commission will not be limited to consideration of comments of record, but will take into account all relevant information obtained in any manner from informed sources.

21. In accordance with the provisions of section 1.54 of the rules, an original and 14 copies of all written comments and statements shall be furnished the Commission.

Adopted: February 14, 1962.

Released: February 16, 1962.

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

[F.R. Doc. 62-1947; Filed, Feb. 26, 1962; 8:51 a.m.]

Notices

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL ADMINISTRATORS

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

Each Regional Administrator of the Housing and Home Finance Agency, in carrying out the program of loans for housing for the elderly on behalf of the Housing and Home Finance Administrator through the Community Facilities Administration, is hereby authorized under section 202 of the Housing Act of 1959, as amended (73 Stat. 667, as amended, 12 U.S.C. 1701q):

1. To execute loan agreements and regulatory agreements;

2. To execute amendments or modifications of any such loan agreements or regulatory agreements;

3. To redelegate to the Regional Director of Community Facilities Activities the authority delegated herein; and

4. In the case of the Regional Administrator, Region VI (San Francisco), to redelegate to the Director for Northwest Operations, Region VI, at Seattle, Washington, any of the authority delegated herein.

This delegation supersedes the delegation effective December 22, 1961 (26 F.R. 12787, 12/30/61).

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c)

Effective as of the 27th day of February 1962.

[SEAL] ROBERT C. WEAVER,
Housing and Home Finance Administrator.

[F.R. Doc. 62-1929; Filed, Feb. 26, 1962; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification No. 59; Offer No. 18]

NEW MEXICO

Small Tract Classification

1. Pursuant to authority delegated to me by Bureau Order No. 684, dated August 28, 1961 (26 F.R. 8216), I hereby offer the small tracts described below for public sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended.

2. The subject parcels are located approximately 11 miles east of Los Alamos, New Mexico, via State Highway 4 and 1½ miles of unimproved road. Also, the lands are located 24 miles northwest of Santa Fe, New Mexico, via U.S. Highway 285 and State Highway 4 and 1½ miles of unimproved dirt road. The climate is moderate with a mean annual temperature of 50 degrees; the annual precipitation is 10 inches; the average frost-free season is 152 days; and the elevation varies from 5,800 to 6,200 feet above sea level. These parcels afford excellent scenic views of the Sangre de Cristo and Jemez Mountain ranges and the Rio Grande Valley. The topography is rolling and gully erosion is moderate. Culinary water is untested in the area, however, there are two Artesian wells on the lands immediately west of the subject land. Electric power and natural gas are available from nearby installations.

3. The tracts vary in size as shown below. The land will be sold subject to existing rights-of-way for roads, electric transmission line and natural gas pipe line, and other rights-of-way for streets, roads, and public utilities will be reserved on the side, or sides as shown below. All minerals are reserved to the United States. Sites for schools have been reserved.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

RIGHTS-OF-WAY RESERVATIONS

[T. 19 N., R. 8 E., Sec. 29]

Unit	Legal description; Lot—	Acres	33′ R/W	10′ R/W	Value
1	9	4.03			$600
2	10	3.99	South and West		400
3	11	3.95	East		600
4	12	3.91	West		700
5	13	3.87	East		600
6	14	3.84			600
7	15	3.79			400
8	16	3.75	Existing Road [1]		700
9	17	2.50	South and Existing Road [1]		300
10	18	2.50	South		500
11	19	2.49	South and East		350
12	20	2.50	South and West		350
13	21	2.50	South and East		400
14	22	2.50	South and West		500
15	23	2.50	South		400
16	24	2.50	South and East		350
17	25	2.49	South and West		400
18	26	2.49		South and East	600
19	27	2.49		South and West	500
20	28	2.49	East	South	500
21	29	2.49	North and West	do	400
22	30	2.49	North and East	do	400
23	31	2.50	South and West		450
24	32	2.49	South and East		350
25	33	2.49	North and East		350
26	34	2.49	North		300
27	35	4.99		35–North	500
	36		36–West	36–North	
28	37	2.50	West and East	North	400
29	38	2.49	East and South	North	450
30	39	2.49	South and West	North	400
31	40	2.50	North and East		350
32	41	2.49	North and West		350
33	42	2.49	North and East		500
34	43	2.49	North and West		350
35	44	2.49	North and East		300
36	45	2.49	North and West		400
37	46	2.49	North and East		350
38	47	2.49	North and West		400
39	48	2.50	North and East		350
40	49	2.49	East		400
41	50	2.49	West		350
42	51	2.49	East		350
43	52	2.49	West		350
44	53	2.49	East		350
45	54	2.49	West		350
46	55	2.49	East		350
47	56	4.98	56–West		500
	57		57–East		
48	58	2.49	North and West	South	400
49	59	2.49	North and East	South	450
50	60	2.49	South, West, East		400
51	61	2.49	South and West		350
52	62	2.49	South		350
53	63	2.50	do		350
54	64	2.49	East	South	450
55	65	2.49	do	North	450
56	66	2.49	North and South		400
57	67	2.49	do		350
58	68	2.50	North, South, West		450
59	69	2.50	North and East		450
60	70	2.50		North	350
61	71	2.49	West	North	350
62	72	4.98	72–East		500
	73		73–West		
63	74	2.49	East		400
64	75	2.49	West		350
65	76	2.49	East		350
66	77	2.49	West		350
67	78	2.49	East		450
68	79	2.49	West		450
69	80	2.49	East		450
70	81	2.49	do		350

See footnotes at end of table.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued
RIGHTS-OF-WAY RESERVATIONS—continued
[T 19 N., R. 8 E.; Sec. 29]

Unit	Legal description; Lot—	Acres	33′ R/W	10′ R/W	Value
71	82	2.49	West		$450
72	83	2.49	East		350
73	84	2.49	West		400
74	85	2.49	East		450
75	86	2.49	West		350
76	87	2.49	East		550
77	88	4.98	88–West		550
	89		89–East		
78	90	2.49	West and South		400
79	91	2.50	South		400
80	92	2.50	East	South	400
81	93	2.49	North and West	do	400
82	94	2.49	North	do	450
83	95	2.49	do	do	450
84	96	2.49	East	do	450
85	97	2.49	East and South	North	550
86	98	2.49	South	do	450
87	99	2.49	do	do	450
88	100	2.49	South and West	do	400
89	101	2.49	West and East	do	400
90	102	2.49	North and East		450
91	103	2.49	North and West		450
92	104	2.49	East		400
93	105	2.49	West		450
94	106	2.49	East and South		400
95	107	2.49	South and West		400
96	108	2.49	South and East		400
97	109	2.49	West		350
98	110	2.49	East		450
99	111	2.49	West		450
100	112	2.49	East		400
101	113	2.49	do		400
102	114	2.49	West		400
103	115	2.49	East		450
104	116	2.50	West and East		450
105	117	2.49	North and West	East	400
106	118	2.50	North and East	West	400
107	119	2.49	West and North	East	400
108	120	2.50		West	450
109	121	2.50	South and East		350
110	122	2.50	West	South	350
111	123	2.50	East	do	450
112	124	2.50	West and East	do	350
113	125	2.50	North and West	do	400
114	126	2.50	North and East	do	500
115	127	2.50	North and West	do	450
116	128	5.00	128–North and East		550
	129		129–East		
117	130	2.50		North	450
118	131	2.50		do	450
119	132	2.50	South and West	do	450
120	133	2.50	South, West, East	do	400
121	134	2.50	East	do	450
122	135	2.50	West	do	400
123	136	2.50	North and East		350
124	137	2.50		West	400
125	138	2.49	West	East	400
126	139	2.49	East	West	400
127	140	2.49	West	East	400
128	141	2.49	East and West		400
129	142	2.49	East		450
130	143	2.50	West		350
131	144	2.49	East		350
132	145	2.49	do		350
133	146	2.49	West		350
134	147	2.49	East		350
135	148	2.49	West and East		400
136	149	2.49	West and [2]	East	400
137	150	2.49		West	400
138	151	2.49		East	350
139	152	2.49		South and West	
140	153	2.50	South and East		

See footnotes at end of table.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued
RIGHTS-OF-WAY RESERVATIONS—continued
[T 19 N., R. 8 E.; Sec. 29]

Unit	Legal description; Lot—	Acres	33′ R/W	10′ R/W	Value
141	154	2.50	West	South	$450
142	155	2.50		do	500
143	156	2.50	North and East	do	400
144	157	2.50	North, South, West		350
145	158	2.50	South		400
146	159	5.00		South	550
	160		160–East	do	
147	161	5.00	161–East	North	600
	162		162–West	do	
148	163	2.50	North and East		350
149	164	2.50	North and West		400
150	165	2.50	East and South	North	450
151	166	2.50	South	do	450
152	167	2.50	West	do	400
153	168	2.49	North and East		350
154	169	4.98		North	500
	170				
155	171	4.98	[3]	West	550
	172		[3]	East	
156	173	2.49	West and [3]		350
157	174	2.49	South and East		300
158	175	2.49	South and West		400
159	176	2.49	East and South		300
160	177	2.49	North	East	350
161	178	2.49	do	West	400
162	179	2.49	do	East	350
163	180	2.49		West	300
164	181	2.49	East		300
165	182	2.50	West		350
166	183	5.00			500
	184				
167	185	2.50	South and East		350
168	186	2.50	South, West, East		350
169	187	2.50	North and West	South	450
170	188	2.50	East and North	do	450
171	189	2.49	West	do	350
172	190	2.50	East	do	450
173	191	2.50	South and West		350
174	192	2.50	South and East		400
175	193	2.50	North and East		350
176	194	2.49	North and West		400
177	195	2.50	East	North	400
178	196	2.50	West	do	350
179	197	5.00	197–East	do	600
	198		198–West	do	
180	199	5.00	199–East and North		500
	200		200–West and North		
181	201	4.98	201–East and South		550
	202		202–South		
182	203	2.49	West and South		300
183	204	2.49	East and South		350
184	205	2.49	South	West	350
185	206	2.48	do	East	450
186	207	2.49	do	West	400
187	208	2.49	do	East	350
188	209	4.98	209–North	do	500
	240			South	
189	210	4.97	210–North	West	500
	239			South	
190	211	4.97	211–North	do	500
	238				
191	212	4.98	212–North		550
	237		237	South	
192	213	4.98	213–East and North		550
	236		236–East	South	
193	214	4.98	214–West and North		550
	215		215–North		
194	216	4.99	216–North		550
	233		233	South	
195	217	4.99		do	550
	218		218–East	do	
196	219	2.50	South and West		350
197	220	2.50	South and East		400
198	221	2.50	West	South	350

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

RIGHTS-OF-WAY RESERVATIONS—continued

[T 19 N., R. 8 E.; Sec. 29]

Unit	Legal description; Lot—	Acres	33′ R/W	10′ R/W	Value
					$400
199	222	2.50	East	South	350
200	223	2.50	South and West		450
201	224	2.50	East	South	350
202	225	2.50	do	North	350
203	226	2.50	North		400
204	227	2.50		North	350
205	228	2.50	West	do	400
206	229	2.49	North and East		300
207	230	2.50	North		550
208	231	5.00		North and South	
	232			North, South, West	500
209	234	4.98		South	
	235		235-West	do	

[T. 19 N., R. 8 E., Sec. 30]

210	12	3.74	Existing Road [1]	East	500
211	16	2.49	South	West	450
212	17	2.50	South and Existing Road [1]		500
213	18	2.50	North, West, Existing Road [1]	North and East	450
214	19	2.49	Existing Road [1]	North	400
215	20	2.49	do		450
216	21	2.49		South	500
217	22	2.49		do	450
218	23	2.50	Existing Road [1]	do	400
219	24	2.49	East		450
220	25	2.50	West		350
221	26	2.50		West	450
222	27	2.49		North, East	450
223	28	2.49	West and Existing Road [1]	North	500
224	29	2.49	East and Existing Road [1]	do	450
225	30	2.49	do [1]	South	400
226	31	2.50	South and West		600
227	32	4.99		South and East	
	33			West	600
228	34	4.99		do	
	45			do	550
229	35	4.99		North and East	
	44			East	500
230	36	2.49	North and West		500
231	37	2.49	East and Existing Road [1]	North	400
232	41	2.50	Existing Road	South	400
233	42	2.50	East	do	450
234	43	2.50	West	do	400
234-A	46	2.49	do		450
235	47	2.50	East	North	450
236	48	2.49		do	400
237	49	2.50		do	450
238	50	2.49	Existing Road [1]	do	600
239	54	5.00			
	55				500
240	56	2.50	South and Existing Road [1]		450
241	57	2.50	do [1]		400
242	58	2.50	South		400
243	59	2.50	do		400
244	60	2.50	South and East		450
245	61	2.49	West		500
246	62	2.49	West and South		400
247	63	2.50	North and East		450
248	64	2.49	North		450
249	65	2.50	do		400
250	66	2.50	do		450
251	67	2.49	North and Existing Road [1]		600
252	68	4.99			
	69				600
253	70	5.00			
	71		71-South and Existing Road [1]		400
254	72	2.50	South and Existing Road		400
255	73	2.50	South		

See footnotes at end of table.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

RIGHTS-OF-WAY RESERVATIONS—continued

[T. 19 N., R. 8 E., Sec. 30]

Unit	Legal description; Lot—	Acres	33′ R/W	10′ R/W	Value
					$400
256	74	2.50	South		350
257	75	2.49	do		400
258	76	2.50	South and East		400
259	77	2.49	West and North		400
260	78	2.49	South and West		400
261	79	2.50	North and East		400
262	80	2.49	North		400
263	81	2.50	do		400
264	82	2.49	do		450
265	83	2.50	do		400
266	84	2.50	North and Existing Road [2]		400
267	85	2.49	North		450
268	86	2.50	South and Existing Road [1]		500
269	87	2.50	do [1]		450
270	88	2.50	South		450
271	89	2.50	do		400
272	90	2.50	do		450
273	91	2.49	do	South, East	400
274	92	2.49		West	600
275	93	2.49	North	South	
276	94	4.98		North	400
	95				400
277	96	2.49	North		400
278	97	2.49	do		450
279	98	2.49	do		450
280	99	2.49	do	West	450
281	100	2.49	do	East	
282	101	2.49	North and Existing Road [1]		

[T. 19 N., R. 8 E., Sec. 31]

283	5	2.50	South	North, West	350
284	6	2.49	do	East	450
285	7	2.49	do		450
286	8	2.50	do		400
287	9	2.50	do		450
288	10	2.49	do		400
289	11	2.49	do		400
290	12	2.50	do		400
291	13	2.50	North, South and Existing Road [1]		400
292	14	2.50	North	South	350
293	15	2.50	do	do	550
294	16	5.00	16-North		
	25			East	450
295	26	2.50	South	North, West	450
296	27	2.50	South and Existing Road [1]	North, East	450
297	28	2.50	North and Existing Road [1]	West	400
298	29	2.50	North and East		450
299	30	2.49	North and West		400
300	31	2.49	North		450
301	32	2.50	do		500
302	33	2.50	do		350
303	34	2.49	do		350
304	35	2.49	do	East	500
305	36	2.50	do	West	400
306	37	2.50		South, West	500
307	38	2.50	South	East	350
308	39	2.50	do		400
309	40	2.50	do		450
310	41	2.50	do		450
311	42	2.49	do		350
312	43	2.49	South and West		350
313	44	2.50	East		450
314	45	2.50			350
315	46	2.50	North, Existing Road [1]		350
316	47	2.50	North		450
317	48	2.50			400
318	49	2.50			450
319	50	2.51	South	West	500
320	51	4.47		East	
	52				

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

RIGHTS-OF-WAY RESERVATIONS—continued

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

RIGHTS-OF-WAY RESERVATIONS—continued

[T. 19 N., R. 8 E., Sec. 31]

Unit	Legal description; Lot—	Acres	33′ R/W	10′ R/W	Value
321	53	4.47			$550
	54			East	
322	55	2.50	North, South, East	West	500
323	56	2.50	South and West	East	450
324	57	2.50	South	West	450
325	58	2.50	do		450
326	59	2.50	South and Existing Road [1]		300
327	60	2.50		South	300
328	61	2.50		South, East	350
329	62	2.49	North	West	350
330	63	2.49	do	East	350
331	64	2.50	do	West	350
332	65	2.50	do	East	400
333	66	2.50	do	West	450
334	67	2.49	East and North		400
335	68	2.49	West	North	400
336	69	2.50	do		400
337	70	2.49	East		300
338	71	2.50		West	400
339	72	2.49		East	450
340	73	2.50		West	400
341	74	2.49		East	450
342	75	4.99		West	450
	94			do	
343	76	4.99		East	600
	93			do	
344	77	2.50		North	550
345	78	2.50	North and Existing Road [1]		400
346	79	2.50	North		350
347	80	2.51	do		450
348	81	2.50	do		400
349	82	2.51	do		450
350	83	4.48			550
	84				
351	85	1.98	South		350
352	86	2.50	do		400
353	87	2.50	do		450
354	88	2.50	do		400
355	89	2.50	do		450
356	90	2.50	South and Existing Road [1]		400
357	91	2.50	South		400
358	92	2.50		South	400
359	95	2.49	East		400
360	96	2.50	South and West		400
361	97	2.49	South and East		400
362	98	2.50	South and West		350
363	99	2.49	South and East		400
364	100	2.50	West		500
365	101	2.50	do		350
366	102	2.49	North and East		500
367	103	2.50	North and West		400
368	104	2.49	North and East		350
369	105	2.50	North and West		300
370	106	2.49	South and East		300
371	107	2.50	South and West		350
372	108	2.49	East	North	500
373	112	2.50	North		450
374	113	2.50	do		450
375	114	2.51	do		300
376	115	2.50	do		450
377	116	1.98	do		350
378	117	1.98		South	300
379	118	2.50	South		450
380	119	2.50	do		400
381	120	2.50	do		350
382	121	2.50	South and Existing Road [1]		350
383	125	2.49	South and East		450
384	126	2.50	North and West		450
385	127	2.49	North	East	450
386	128	2.50		West	500
387	129	2.49		East	500

See footnotes at end of table.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

RIGHTS-OF-WAY RESERVATIONS—continued

[T. 19 N., R. 8 E., Sec. 31]

Unit	Legal description; Lot—	Acres	33′ R/W	10′ R/W	Value
388	130	2.50		West	$500
389	131	2.49		East	450
390	132	2.50		West	500
391	133	2.50	South	do	500
392	134	2.50	do	East	500
393	135	2.50	do	West	500
394	136	2.49	do	East	450
395	137	2.50	do	West	350
396	138	2.49	do	East	350
397	139	2.49	South and West		350
398	140	2.49	North and East		400
399	141	2.49	North and West		350
400	142	2.50	North and East		400
401	143	2.49	North		350
402	144	2.50	North and Existing Road [1]		400
403	145	2.50	do [1]		450
404	146	2.50	North		350
405	147	2.50	do		450
406	148	1.97		North	300
407	149	1.97		South	350
408	150	2.50	South		450
409	151	2.50	do		450
410	152	2.50	South and Existing Road [1]		450
411	153	2.50		South	450
412	154	2.50		do	450
413	155	2.50	South and East		450
414	156	2.50	South and West		350
415	157	2.49		South, East	350
416	158	2.50	North	West	450
417	159	2.49	do	East	400
418	160	2.49	do	West	400
419	161	2.49	do	East	450
420	162	2.49	do	West	400
421	163	2.49	do	East	450
422	164	2.49		West	500
423	165	2.49	South	do	450
424	166	2.49	do	East	500
425	167	2.49	do	West	400
426	168	2.49	do	East	400
427	169	2.49	do	West	350
428	170	2.49	do	East	450
429	171	2.49	do	West	450
430	172	2.49	South and West	North, East	500
431	173	2.50	North and East		500
432	174	2.50	North		350
433	175	2.50		North	500
434	176	2.50		do	500
435	177	2.50	North and Existing Road [1]		450
436	178	2.50	South, North, and Existing Road [1]		500
437	179	2.50	North		450
438	180	1.97		North	300
439	181	1.97		South	350
440	182	2.50	South		450
441	183	2.50	North and Existing Road [1]	South	450
442	184	2.50		do	450
443	185	2.50		do	500
444	186	2.50		do	450
445	187	2.50		do	450
446	188	2.49		do	450
447	189	2.50	East and North	do	500
448	190	2.50	West and North		500
449	191	2.50	East and North		450
450	192	2.50	West and North		400
451	193	2.50	North	East	500
452	194	2.50	North, South, and East	West	400
453	195	2.50	North, West	East	400
454	196	2.50	North, East	West	350
455	197	2.49		do	450
456	198	2.50		East	450
457	199	2.49	North and West		450
458	200	2.50	East		450
459	201	2.50	West		450
460	202	2.49	East		500

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

RIGHTS-OF-WAY RESERVATIONS—continued

[T. 19 N., R. 8 E., Sec. 31]

Unit	Legal description; Lot—	Acres	33' R/W	10' R/W	Value
461	203	2.50	West		$400
462	204	2.50	East	North	450
463	205	2.50	West	do	450
464	206	2.50	South and East	do	450
465	207	2.50	South and West	do	350
466	208	2.50	South and East	do	350
467	209	2.50	South	do	300
468	210	2.50	South and Existing Road [1]	do	450
469	211	2.50	North, South and Existing Road [1]		450
470	212	1.97		North	300
471	213	1.97	Existing Road [1]	South	300
472	214	2.50	North, East, and Existing Road [1]	do	400
473	215	2.50	North, South, and West		450
474	216	2.50	North and South		450
475	217	2.50	do		450
476	218	2.49	do		450
477	219	2.50	North, South, and East		500
478	220	2.49	South and West		450
479	221	2.49	South and East		450
480	222	2.49	South and West		300
481	223	2.49	South and East		350
482	224	2.50	South and West		450
483	225	2.50	South and East		400
484	226	2.50	South and West		400
485	227	2.50	South	East	450
486	228	2.50		West	450
487	229	2.50		do	350
488	230	2.49	North	South, East	450
489	231	2.49	do	South, West	450
490	232	2.49	do	South, East	500
491	233	2.50	do	South, West	450
492	234	2.50	North and West	South, East	450
493	235	2.50	North and East		450
494	236	4.98	236–North		600
	253		253–South		
495	237	4.99	237–North		600
	252		252–South		
496	238	5.00	238–North		600
	251		251–South		
497	239	5.00	239–North		600
	250		250–South		
498	240	5.00	240–North		600
	249		249–South		
499	241	5.00	241–North		600
	248		248–South		
500	242	5.00	242–North and West		500
	247		247–West and South		
501	243	5.00	243–East	North	400
	246		246–East and South		
502	244	3.94	244–Existing Road [1]	North	400
	245		245–South		
503	254	2.50	East and South		450
504	255	2.49	South and West	North, East	450
505	256	2.49	South	North, West	400
506	257	2.50	do	North, East	400
507	258	2.50	do	North, West	400
508	259	2.49	do	North	400
509	260	2.50	do	do	400

[1] The centerline of the existing road is located at the following points:
Point 1: S. 89°57.5' W., 9.15 chains from the N ¼6 corner common to Sections 29 and 30. (2 chains east of the pipeline.)
Point 2: N. 0° 10.5' W., 1.22 chains from the C–E ¼6 corner, Section 30. (1.48 chains south of the pipeline.)
Point 3: N. 0°11' W., 3.20 chains from ¼ corner common to Sections 30 and 31.
Point 4: N. 89°59.5' W., 8.69 chains from C–N ¼6 corner, Section 31. (1.307 chains east of C–E–NW ¼64 or 0.40 chains west of the pipeline.)
Point 5: S. 89°59.5' W., 18.215 chains from C–¼ corner, Section 31. (1.78 chains east of C–W ¼6 or 0.93 chains east of the pipeline.)
Point 6: N. 0°03.0' W., 7.698 chains from C–N–SW ¼64 corner, Section 31. (2.30 chains south of C–W ¼6 corner.)
Point 7: S. 89°55.5' W., 29.98 chains from C–S ¼6 corner, Section 31. (.005 chains east of C–W–SW ¼64 corner or 0.90 chains east of the pipeline.)
Point 8: N. 0°04.5' W., 11.76 chains from section corner common to Sections 36, 31, 1, and 6. (0.759 chains north of S–S ¼64 corner.)
[2] Along south side of tract for a distance of 165 feet from the southwest corner of Lot 149, 33 feet in width.
[3] Along the north side of Lot 172 for a distance of 165 feet from the northwest corner of said lot, 33 feet in width, thence in a southeasterly direction with a centerline to the southeast corner of said lot with a width of 33 feet on each side of centerline for a total width of 66 feet.

4. The above-described tracts will be sold at public auction at a public sale to be held at St. Francis Auditorium, Museum of New Mexico, 107 West Palace Avenue, Santa Fe, New Mexico, beginning at 10:00 a.m. on March 27, 1962, Units 1 to 146, inclusive; at 10:00 a.m. on March 28, 1962, Units 147 to 335, inclusive; and at 10:00 a.m. on March 29, 1962, Units 336 to 509, inclusive. Bids may be made personally by the bidder or his agent at the sale or may be mailed. Bids sent by mail will be considered only if received at the New Mexico Bureau of Land Management Office prior to 10:00 a.m. on March 26, 1962. See mailing address below. Sealed bids will be opened in the presence of the sale. No sealed bid will be accepted if it is less than the appraised value of the tract. Oral bidding will be in increments to be announced at the sale. See Paragraph 3 above for appraised values.

5. Persons who have previously acquired a tract under the Small Tract Act are not qualified to purchase a tract at the sale unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

6. Each bid sent by mail must clearly show (a) the name and post office address of the bidder, (b) Offer No. 18, and (c) the land description of the tract for which the bid is made, described in accordance with Paragraph 3 of this order. Each bid must be accompanied by the full amount bid in the form of a certified or cashier's check, post office money order, or bank draft made payable to the Bureau of Land Management. Each bid must be enclosed in a separate envelope but payment need accompany only the highest bid, providing all other bids designate the envelope containing the payment. Each envelope must carry on its reverse the following information and nothing else: (a) Offer No. 18, March 27, 1962, (b) the description of the tract for which the bid is made, described in accordance with Paragraph 3 of this order.

7. Each tract will be awarded to the highest qualified bidder. If the highest bid is oral, the bidder will be required to make payment for the tract at the close of bidding and a personal check will be acceptable for that purpose. Any person who is declared high bidder for any tract will automatically be disqualified from consideration for other tracts at the sale.

8. All lots not sold on March 27, 28, and 29, 1962, will be reoffered for public sale at 10:30 a.m., on March 30, 1962, at the Bureau of Land Management, Greer Building, 113 Washington Avenue, Santa Fe, New Mexico; then, the sale will be adjourned at 3:00 p.m., until 10:30 a.m. on the following Wednesday for a one-hour period; and thereafter, on succeeding Wednesdays for additional one-hour periods (10:30 a.m. to 11:30 a.m.) until all lots are sold or until the termination date of the sale, August 29, 1962. Bids may be made personally by an individual or his agent at the sale or by mail. Bids sent by mail will be considered at a sale session only if received at the Santa Fe Land Office prior to 10:00 a.m. of the day on which the session is held. At each sale session, those lots will be offered for which timely filed sealed bids have been rereived or for which nominations are made by oral bidders present at the sale, to the extent that time permits their offer. Late filed sealed bids and sealed bids not reached for consideration at one session will be held for consideration at succeeding scheduled sessions.

9. Inquiries concerning these lands should be addressed to the Manager, Land Office, Bureau of Land Management, Post Office Box 1251, Santa Fe, New Mexico.

CHESLEY P. SEELY,
State Director.

FEBRUARY 14, 1962.

[F.R. Doc. 62–1815; Filed, Feb. 26, 1962; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series—No. 4–62]

4 PERCENT TREASURY BONDS OF 1971

Offering of Bonds

FEBRUARY 19, 1962.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 4 percent Treasury Bonds of 1971:

(1) At par in exchange for 3 percent Treasury Bonds of 1964, dated February 14, 1958, due February 15, 1964; or

(2) At 102 percent of their face value in exchange for 2⅝ percent Treasury Bonds of 1965, dated June 15, 1958, due February 15, 1965. The cash payment due from the subscriber on account of the issue price of the new bonds ($20.00 per $1,000) will be payable by the subscriber as set forth in section IV hereof.

Interest will be adjusted as of March 1, 1962, as set forth in section IV hereof. Delivery of the new bonds will be made on March 9, 1962. The amount of the offering under this circular will be limited to the amount of the eligible securities tendered in exchange and accepted. The books will be open for the receipt of subscriptions for this issue from all classes of subscribers from February 19 through February 21, 1962, and, in addition, subscriptions may be submitted by individuals through February 28, 1962. For this purpose individuals are defined as natural persons in their own right.

2. In addition to the offering under this circular, holders of the 2⅝ percent Treasury Bonds of 1965 are offered the privilege of exchanging all or any part of such bonds for 4 percent Treasury Bonds of 1980, which offering is set forth in Department Circular, Public Debt Series—No. 5–62, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes: Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86–346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the eligible bonds enumerated in paragraph one of this section solely for the 4 percent Treasury Bonds of 1971. Gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. *Description of bonds.* 1. The bonds will be dated March 1, 1962, and will bear interest from that date at the rate of 4 percent per annum, payable on a semiannual basis on August 15, 1962, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 1971, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington 25, D.C. Banking institutions generally may submit subscriptions for account of customers, provided the names of the customers are set forth in such subscriptions, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of bonds allotted hereunder must be made on or before March 9, 1962, or on later allotment, and may be made only in a like face amount of the two series of bonds enumerated in paragraph one of Section I hereof, which should accompany the subscription.

2. Three percent bonds of 1964: Coupons dated August 15, 1962, and all subsequent coupons, must be attached to the 3 percent Treasury Bonds of 1964, in bearer form, when surrendered. Accrued interest from February 15 to March 1, 1962 ($1.16022 per $1,000) will be paid to subscribers, in the case of bearer bonds following their acceptance and in the case of registered bonds following discharge of registration. In the case of registered bonds, the payment will be made by check drawn in accordance with the assignments on the bonds surrendered, or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District.

3. 2⅝ percent bonds of 1965: Coupons dated August 15, 1962, and all subsequent coupons, must be attached to the 2⅝ percent Treasury Bonds of 1965, in bearer form, when surrendered. Accrued interest from February 15 to March 1, 1962 ($1.01519 per $1,000) on the 2⅝ percent bonds will be credited, the payment ($20.00 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($18.98481 per $1,000) must be paid by subscribers and should accompany the subscription.

V. *Assignment of registered bonds.* 1. Treasury Bonds of the two eligible series in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington 25, D.C. If the new bonds are desired registered in the same name as the bonds surrendered in exchange, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1971"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1971 in the name of _____"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1971 in coupon form to be delivered to _____".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds alloted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 62–1924; Filed, Feb. 26, 1962; 8:49 a.m.]

[Dept. Circular, Public Debt Series—No. 5–62]

4 PERCENT TREASURY BONDS OF 1980

Offering of Bonds

FEBRUARY 19, 1962.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at 100.25 percent of their face value and accrued interest, from the people of the United

States for bonds of the United States, designated 4 percent Treasury Bonds of 1980, in exchange for 2⅝ percent Treasury Bonds of 1965, dated June 15, 1958, due February 15, 1965. Interest adjustments as of March 1, 1962, and the cash payment ($2.50 per $1,000) due from the subscriber on account of the issue price of the new bonds will be made as set forth in section IV hereof. Delivery of the new bonds will be made on March 9, 1962. The amount of the offering under this circular will be limited to the amount of the 2⅝ percent Treasury Bonds of 1965 tendered in exchange and accepted. The books will be open for the receipt of subscriptions for this issue from all classes of subscribers from February 19 through February 21, 1962, and, in addition, subscriptions may be submitted by individuals through February 28, 1962. For this purpose individuals are defined as natural persons in their own right.

2. In addition to the offering under this circular, holders of the 2⅝ percent Treasury Bonds of 1965 are offered the privilege of exchanging all or any part of such bonds for 4 percent Treasury Bonds of 1971, which offering is set forth in Department Circular, Public Debt Series—No. 4–62, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes: Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86–346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the 2⅝ percent Treasury Bonds of 1965 solely for the 4 percent Treasury Bonds of 1980. Gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. *Description of bonds.* 1. The bonds now offered will be an addition to and will form a part of the series of 4 percent Treasury Bonds of 1980 issued pursuant to Department Circular No. 1020, dated January 12, 1959, will be freely interchangeable therewith, and are identical in all respects therewith except that interest on the bonds to be issued under this circular will accrue from March 1, 1962. Subject to the provision for the accrual of interest from March 1, 1962, on the bonds now offered, the bonds are described in the following quotation from Department Circular No. 1020:

1. The bonds will be dated January 23, 1959, and will bear interest from that date at the rate of 4-percent per annum, payable on a semiannual basis on August 15, 1959, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature February 15, 1980, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. Any bonds issued hereunder which upon the death of the owner constitute part of his estate, will be redeemed at the option of the duly constituted representatives of the deceased owner's estate, at par and accrued interest to date of payment: [1] *Provided:*

(a) That the bonds were actually owned by the decedent at the time of his death; and

(b) That the Secretary of the Treasury be authorized to apply the entire proceeds of redemption to the payment of Federal estate taxes.

Registered bonds submitted for redemption hereunder must be duly assigned to "The Secretary of the Treasury for redemption, the proceeds to be paid to the District Director of Internal Revenue at ---------- for credit on Federal estate taxes due from estate of ----------". Owing to the periodic closing of the transfer books and the impossibility of stopping payment of interest to the registered owner during the closed period, registered bonds received after the closing of the books for payment during such closed period will be paid only at par with a deduction of interest from the date of payment to the next interest payment date; [2] bonds received during the closed period for payment at a date after the books reopen will be paid at par plus accrued interest from the reopening of the books to the date of payment. In either case checks for the full six months' interest due on the last day of the closed period will be forwarded to the owner in due course. All bonds submitted must be accompanied by Form PD 1782,[3] properly completed, signed and certified, and by proof of the representatives' authority in the form of a court certificate or a certified copy of the representatives' letters of appointment issued by the court. The certificate, or the certification to the letters, must be under the seal of the court, and except in the case of a corporate representative, must contain a statement that the appointment is in full force and be dated within six months prior to the submission of the bonds, unless the certificate or letters show that the appointment was made within one year immediately prior to such submission. Upon payment of the bonds appropriate memorandum receipt will be forwarded to the representatives, which will be followed in due course by formal receipt from the District Director of Internal Revenue.

6. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

[1] An exact half-year's interest is computed for each full half-year period irrespective of the actual number of days in the half year. For a fractional part of any half year, computation is on the basis of the actual number of days in such half year.

[2] The transfer books are closed from January 16 to February 15, and from July 16 to August 15 (both dates inclusive) in each year.

[3] Copies of Form PD 1782 may be obtained from any Federal Reserve Bank or from the Treasury Department, Washington 25, D.C.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington 25, D.C. Banking institutions generally may submit subscriptions for account of customers, provided the names of the customers are set forth in such subscriptions, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of bonds allotted hereunder must be made on or before March 9, 1962, or on later allotment, and may be made only in a like face amount of 2⅝ percent Treasury Bonds of 1965, which should accompany the subscription. Coupons dated August 15, 1962, and all subsequent coupons, must be attached to the 2⅝ percent bonds of 1965 in bearer form when surrendered. Accrued interest from February 15 to March 1, 1962 ($1.01519 per $1,000) on the 2⅝ percent bonds will be credited, accrued interest from February 15 to March 1, 1962 ($1.54696 per $1,000) plus the payment ($2.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($3.03177 per $1,000) must be paid by subscribers and should accompany the subscription.

V. *Assignment of registered bonds.* 1. Treasury Bonds of 1965 in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington 25, D.C. If the new bonds are desired registered in the same name as the bonds surrendered in exchange, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1980"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1980 in the name of ----------"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1980 in coupon form to be delivered to ----------".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment

for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 62-1925; Filed, Feb. 26, 1962; 8:49 a.m.]

[Dept. Circular, Public Debt Series—No. 6-62]

3½ PERCENT TREASURY BONDS OF 1990

Offering of Bonds

FEBRUARY 19, 1962.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 3½ percent Treasury Bonds of 1990:

(1) At 101.50 percent of their face value in exchange for 2½ percent Treasury Bonds of 1967–72, dated October 20, 1941, due September 15, 1972, in amounts of $500 or multiples thereof;

(2) At 101.25 percent of their face value in exchange for 2½ percent Treasury Bonds of 1967–72, dated June 1, 1945, due June 15, 1972; or

(3) At 101.75 percent of their face value in exchange for 2½ percent Treasury Bonds of 1967–72, dated November 15, 1945, due December 15, 1972.

The cash payments due from the subscriber on account of the issue prices of the new bonds issued in exchange for the 2½ percent Treasury Bonds, (a) dated October 20, 1941, due September 15, 1972 ($15.00 per $1,000), (b) dated June 1, 1945, due June 15, 1972 ($12.50 per $1,000), and (c) dated November 15, 1945, due December 15, 1972 ($17.50 per $1,000) will be payable by the subscriber as set forth in Section IV hereof. Interest will be adjusted as of March 1, 1962, as set forth in Section IV hereof. Delivery of the new bonds will be made on March 16, 1962. The amount of the offering under this circular will be limited to the amount of the eligible bonds tendered in exchange and accepted. The books will be open for the receipt of subscriptions for this issue from all classes of subscribers from February 19 through February 21, 1962, and, in addition, subscriptions may be submitted by individuals through February 28, 1962. For this purpose individuals are defined as natural persons in their own right.

2. In addition to the offering under this circular, holders of the eligible bonds are offered the privilege of exchanging all or any part of such bonds for 3½ percent Treasury Bonds of 1998, which offering is set forth in Department Circular, Public Debt Series—No. 7-62, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes: Pursuant to the provisions of section 1037 (a) of the Internal Revenue Code of 1954 as added by Public Law 86-346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the eligible bonds enumerated in paragraph one of this section solely for the 3½ percent Treasury Bonds of 1990. Gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. *Description of bonds.* 1. The bonds now offered will be an addition to and will form a part of the series of 3½ percent Treasury Bonds of 1990 issued pursuant to Department Circulars Nos. 1005, 1051, and 1066, dated February 3, 1958, September 12, 1960, and September 11, 1961, respectively, will be freely interchangeable therewith, and are identical in all respects therewith except that interest on the bonds to be issued under this circular will accrue from March 1, 1962. Subject to the provision for the accrual of interest from March 1, 1962, on the bonds now offered, the bonds are described in the following quotation from Department Circular No. 1005:

1. The bonds will be dated February 14, 1958, and will bear interest from that date at the rate of 3½ percent per annum, payable on a semiannual basis on August 15, 1958, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature February 15, 1990, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provisions will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. Any bonds issued hereunder which upon the death of the owner constitute part of his estate, will be redeemed at the option of the duly constituted representatives of the deceased owner's estate, at par and accrued interest to date of payment: [1] *Provided:*

(a) That the bonds were actually owned by the decedent at the time of his death; and

(b) That the Secretary of the Treasury be authorized to apply the entire proceeds of redemption to the payment of Federal estate taxes.

Registered bonds submitted for redemption hereunder must be duly assigned to "The Secretary of the Treasury for redemption, the proceeds to be paid to the District Director of Internal Revenue at _____ for credit on Federal estate taxes due from estate of _____." Owing to the periodic closing of the transfer books and the impossibility of stopping payment of interest to the registered owner during the closed period, registered bonds received after the closing of the books for payment during such closed period will be paid only at par with a deduction of interest from the date of payment to the next interest payment date; [2] bonds received during the closed period for payment at a date after the books reopen will be paid at par plus accrued interest from the reopening of the books to the date of payment. In either case checks for the full six months' interest due on the last day of the closed period will be forwarded to the owner in due course. All bonds submitted must be accompanied by Form PD 1782,[3] properly completed, signed and certified, and by proof of the representatives' authority in the form of a court certificate or a certified copy of the representatives' letters of appointment issued by the court. The certificate, or the certification to the letters, must be under the seal of the court, and except in the case of a corporate representative, must contain a statement that the appointment is in full force and be dated within six months prior to the submission of the bonds, unless the certificate or letters show that the appointment was made within one year immediately prior to such submission. Upon payment of the bonds appropriate memorandum receipt will be forwarded to the representatives, which will be followed in due course by formal receipt from the District Director of Internal Revenue.

6. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington 25, D.C. Banking institutions generally may submit subscriptions for account of customers, provided the names of the customers are set forth in such subscriptions, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of bonds allotted hereunder must be made on or before March 16, 1962, or on later allotment, and may be made only in a like face amount of the three series of bonds enumerated in paragraph one of Section I hereof, which should accompany the subscription.

2. 2½ percent bonds of September 15, 1972: Coupons dated March 15, 1962, and all subsequent coupons, must be attached to the 2½ percent bonds due September

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[1] An exact half-year's interest is computed for each full half-year period irrespective of the actual number of days in the half year. For a fractional part of any half year, computation is on the basis of the actual number of days in such half year.

[2] The transfer books are closed from January 16 to February 15, and from July 16 to August 15 (both dates inclusive), in each year.

[3] Copies of Form PD 1782 may be obtained from any Federal Reserve Bank or from the Treasury Department, Washington 25, D.C.

15, 1972, in bearer form, when surrendered. Accrued interest from September 15, 1961, to March 1, 1962 ($11.53315 per $1,000) on the 2½ percent bonds will be credited, accrued interest from February 15 to March 1, 1962 ($1.35359 per $1,000) plus the payment ($15.00 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($4.82044 per $1,000) must be paid by subscribers and should accompany the subscription.

3. 2½ percent bonds of June 15, 1972: Coupons dated June 15, 1962, and all subsequent coupons, must be attached to the 2½ percent bonds due June 15, 1972, in bearer form, when surrendered. Accrued interest from December 15, 1961, to March 1, 1962 ($5.21978 per $1,000) on the 2½ percent bonds will be credited, accrued interest from February 15 to March 1, 1962 ($1.35359 per $1,000) plus the payment ($12.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($8.63381 per $1,000) must be paid by subscribers and should accompany the subscription.

4. 2½ percent bonds of December 15, 1972: Coupons dated June 15, 1962, and all subsequent coupons, must be attached to the 2½ percent bonds due December 15, 1972, in bearer form, when surrendered. Accrued interest from December 15, 1961, to March 1, 1962 ($5.21978 per $1,000) on the 2½ percent bonds will be credited, accrued interest from February 15 to March 1, 1962 ($1.35359 per $1,000) plus the payment ($17.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($13.63381 per $1,000) must be paid by subscribers and should accompany the subscription.

V. *Assignment of registered bonds.* 1. Treasury Bonds of the three eligible series in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington 25, D.C. If the new bonds are desired registered in the same name as the bonds surrendered in exchange, the assignment should be to "The Secretary of the Treasury for exchange for 3½ percent Treasury Bonds of 1990"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 3½ percent Treasury Bonds of 1990 in the name of _____"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 3½ percent Treasury Bonds of 1990 in coupon form to be delivered to _____".

VI. *General provisons.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 62-1926; Filed, Feb. 26, 1962; 8:49 a.m.]

[Dept. Circular Public Debt Series—No. 7-62]

3½ PERCENT TREASURY BONDS OF 1998

Offering of Bonds

FEBRUARY 19, 1962.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 3½ percent Treasury Bonds of 1998:

(1) At 100.25 percent of their face value in exchange for 2½ percent Treasury Bonds of 1967–72, dated October 20, 1941, due September 15, 1972, in amounts of $500 or multiples thereof;

(2) At par in exchange for 2½ percent Treasury Bonds of 1967–72, dated June 1, 1945, due June 15, 1972; or

(3) At 100.50 percent of their face value in exchange for 2½ percent Treasury Bonds of 1967–72, dated November 15, 1945, due December 15, 1972.

The cash payments due from the subscriber on account of the issue prices of the new bonds issued in exchange for the 2½ percent Treasury Bonds, (a) dated October 20, 1941, due September 15, 1972 ($2.50 per $1,000) and (b) dated November 15, 1945, due December 15, 1972 ($5.00 per $1,000) will be payable by the subscriber as set forth in Section IV hereof. Interest will be adjusted as of March 1, 1962, as set forth in Section IV hereof. Delivery of the new bonds will be made on March 16, 1962. The amount of the offering under this circular will be limited to the amount of the eligible bonds tendered in exchange and accepted. The books will be open for the receipt of subscriptions for this issue from all classes of subscribers from February 19 through February 21, 1962, and, in addition subscriptions may be submitted by individuals through February 28, 1962. For this purpose individuals are defined as natural persons in their own right.

2. In addition to the offering under this circular, holders of the eligible bonds are offered the privilege of exchanging all or any part of such bonds for 3½ percent Treasury Bonds of 1990, which offering is set forth in Department Circular, Public Debt Series—No. 6-62, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes: Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86-346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the eligible bonds enumerated in paragraph one of this section solely for the 3½ percent Treasury Bonds of 1998. Gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. *Description of bonds.* 1. The bonds now offered will be an addition to and will form a part of the series of 3½ percent Treasury Bonds of 1998 issued pursuant to Department Circulars Nos. 1052 and 1067, dated September 12, 1960, and September 11, 1961, respectively, will be freely interchangeable therewith, and are identical in all respects therewith except that interest on the bonds to be issued under this circular will accrue from March 1, 1962. Subject to the provision for the accrual of interest from March 1, 1962, on the bonds now offered, the bonds are described in the following quotation from Department Circular No. 1052:

1. The bonds will be dated October 3, 1960, and will bear interest from that date at the rate of 3½ percent per annum, payable on a semiannual basis on May 15 and November 15, 1961, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature November 15, 1998, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. Any bonds issued hereunder which upon the death of the owner constitute part of his estate, will be redeemed at the option of the duly constituted representatives of the deceased owner's estate, at par and accrued interest to date of payment:[1] *Provided:*

(a) That the bonds were actually owned by the decedent at the time of his death; and

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[1] An exact half-year's interest is computed for each full half-year period irrespective of the actual number of days in the half year. For a fractional part of any half year, computation is on the basis of the actual number of days in such half year.

(b) That the Secretary of the Treasury be authorized to apply the entire proceeds of redemption to the payment of Federal estate taxes.

Registered bonds submitted for redemption hereunder must be duly assigned to "The Secretary of the Treasury for redemption, the proceeds to be paid to the District Director of Internal Revenue at ---------- for credit on Federal estate taxes due from estate of ----------." Owing to the periodic closing of the transfer books and the impossibility of stopping payment of interest to the registered owner during the closed period, registered bonds received after the closing of the books for payment during such closed period will be paid only at par with a deduction of interest from the date of payment to the next interest payment date;[2] bonds received during the closed period for payment at a date after the books reopen will be paid at par plus accrued interest from the reopening of the books to the date of payment. In either case checks for the full six months' interest due on the last day of the closed period will be forwarded to the owner in due course. All bonds submitted must be accompanied by Form PD 1782,[3] properly completed, signed and certified, and by proof of the representatives' authority in the form of a court certificate or a certified copy of the representatives' letters of appointment issued by the court. The certificate, or the certification to the letters, must be under the seal of the court, and except in the case of a corporate representative, must contain a statement that the appointment is in full force and be dated within six months prior to the submission of the bonds, unless the certificate or letters show that the appointment was made within one year immediately prior to such submission. Upon payment of the bonds appropriate memorandum receipt will be forwarded to the representatives, which will be followed in due course by formal receipt from the District Director of Internal Revenue.

6. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington 25, D.C. Banking institutions generally may submit subscriptions for account of customers, provided the names of the customers are set forth in such subscriptions, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of bonds allotted hereunder must be made on or before March 16, 1962, or on later allotment, and may be made only in a like face amount of the three series of bonds enumerated in paragraph one of Section I hereof, which should accompany the subscription.

2. 2½ percent bonds of September 15, 1972: Coupons dated March 15, 1962, and all subsequent coupons, must be attached to the 2½ percent bonds due September 15, 1972, in bearer form, when surrendered. Accrued interest from September 15, 1961, to March 1, 1962 ($11.53315 per $1,000) on the 2½ percent bonds will be credited, accrued interest from November 15, 1961, to March 1, 1962 ($10.24862 per $1,000) plus the payment ($2.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($1.21547 per $1,000) must be paid by subscribers and should accompany the subscription.

3. 2½ percent bonds of June 15, 1972: Coupons dated June 15, 1962, and all subsequent coupons must be attached to the 2½ percent bonds due June 15, 1972, in bearer form, when surrendered. Accrued interest from December 15, 1961, to March 1, 1962 ($5.21978 per $1,000) on the 2½ percent bonds will be credited, accrued interest from November 15, 1961, to March 1, 1962 ($10.24862 per $1,000) due the United States on the new bonds will be charged, and the difference ($5.02884 per $1,000) must be paid by subscribers and should accompany the subscription.

4. 2½ percent bonds of December 15, 1972: Coupons dated June 15, 1962, and all subsequent coupons, must be attached to the 2½ percent bonds due December 15, 1972, in bearer form, when surrendered. Accrued interest from December 15, 1961, to March 1, 1962 ($5.21978 per $1,000) on the 2½ percent bonds will be credited, accrued interest from November 15, 1961, to March 1, 1962 ($10.24862 per $1,000) plus the payment ($5.00 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($10.02884 per $1,000) must be paid by subscribers and should accompany the subscription.

V. *Assignment of registered bonds.* 1. Treasury Bonds of the three eligible series in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered to a Federal Reserve Bank or Branch or to the Office of Treasurer of the United States, Washington 25, D.C. If the new bonds are desired registered in the same name as the bonds surrendered in exchange, the assignment should be to "The Secretary of the Treasury for exchange for 3½ percent Treasury Bonds of 1998"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 3½ percent Treasury Bonds of 1998 in the name of ----------"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 3½ percent Treasury Bonds of 1998 in coupon form to be delivered to ---------".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 62-1927; Filed, Feb. 26, 1962; 8:49 a.m.]

[2] The transfer books are closed from April 16 to May 15, and October 16 to November 15 (both dates inclusive) in each year.

[3] Copies of Form PD 1782 may be obtained from any Federal Reserve Bank or from the Treasury Department, Washington 25, D.C.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14529; FCC 62-201]

PALMS BROADCASTING CORP.

Order To Show Cause

In the matter of revocation of license of Palms Broadcasting Corporation for AM Station WGRC, Green Cove Springs, Florida; Docket No. 14529.

The Commission having under consideration (1) the outstanding license issued to Palms Broadcasting Corporation to operate AM Broadcast Station WGRC, Green Cove Springs, Florida. and (2) information that Station WGRC was operated by an unauthorized person for a period from on or about February 1, 1961, to December 18, 1961, in contravention of section 310(b) of the Communications Act of 1934, as amended; and

It appearing, that on June 15, 1960, the Commission approved the assignment of license of Station WGRC, Green Cove Springs, Florida (File No. BAL-3886) from Frank Van Hobbs to Palms Broadcasting Corporation; and

It further appearing, that the Commission was notified by the parties to said assignment that same became effective on July 17, 1960; and

It further appearing, that the application for assignment of license (File No. BAL-3886), section II, page 3 shows Robert A. Oliver to be president and a 50 percent stockholder and David R. Millan to be secretary-treasurer and a 50 percent stockholder of the assignee corporation; and

It further appearing, that Robert A. Oliver and David R. Millan abandoned Station WGRC, Green Cove Springs, Florida, on or about February 1, 1961, with no intention of returning, leaving the operation and control to Frank Van Hobbs, a preferred creditor of the licensee corporation; and

It further appearing, that on February 6, 1961, the licensee, Palms Broadcasting Corporation and Frank Van Hobbs filed an application for assignment of

license (File No. BAL–4150) requesting the assignment of license for Station WGRC to Frank Van Hobbs, which application was dismissed on June 21, 1961, under authority of § 1.312(b) of the Commission's rules for lack of prosecution; and

It further appearing, that Frank Van Hobbs, without any authority from the Commission so to do, has operated and controlled the operation of Station WGRC for the period from on or about February 1, 1961, to December 18, 1961, as of which date, the Commission has been advised, the station ceased operation for financial reasons; and

It further appearing, that an unauthorized assignment of license for Station WGRC to Frank Van Hobbs has been made in violation of section 310(b) of the Communications Act of 1934, as amended, and that such violation was willful;

It is ordered, This 14th day of February 1962, that pursuant to the provisions of Section 312(a)(2), 312(a)(4), and 312(c) of the Communications Act of 1934, as amended, Palms Broadcasting Corporation is directed to show cause why an order revoking its license for AM Station WGRC, Green Cove Springs, Florida, should not be issued, and to appear and give evidence with respect thereto at a hearing [1] to be held in the Commission's offices at Washington, D.C., at a time to be designated by subsequent order, said time in no event to be less than thirty days after receipt of this order; and

It is further ordered, That the Acting Secretary of the Commission send copies of this order by certified mail—return receipt requested, to Palms Broadcasting Corporation, Robert A. Oliver, David R. Millan, and Frank Van Hobbs, at their last known addresses.

Released: February 20, 1962.

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

[F.R. Doc. 62–1948; Filed, Feb. 26, 1962; 8:51 a.m.]

[1] Section 1.77(c) of the Commission's rules provides that a licensee in order to avail itself of the opportunity to be heard shall, in person or by its attorney, file with the Commission within thirty days of the receipt of the order to show cause, a written statement stating that it will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. See § 1.78(a) of the Commission's rules as amended December 12, 1960. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. See § 1.78(b) of the Commission's rules as amended December 12, 1960. In the event the right to a hearing is waived, the Chief Hearing Examiner will terminate the hearing proceeding and certify the case to the Commission. Thereupon the matter will be determined by the Commission in the regular course of business and an appropriate order will be entered. See § 1.78 (c), (d), and (e) of the Commission's rules as amended December 12, 1960.

[Docket No. 14530; FCC 62–202]

FRANK VAN HOBBS

Order To Show Cause

In the matter of a cease and desist order to be directed against Frank Van Hobbs, St. Augustine, Florida; Docket No. 14530.

The Commission having under consideration the information as to the unauthorized and illegal operation and control of Station WGRC, Green Cove Springs, Florida by Frank Van Hobbs; and

It appearing, that on June 15, 1960, the Commission granted an assignment of license of Station WGRC, Green Cove Springs, Florida (File No. BAL–3886) from Frank Van Hobbs to the Palms Broadcasting Corporation; and

It further appearing, that the Commission was notified by the parties to said assignment that same became effective on July 17, 1960; and

It further appearing, that on or about February 1, 1961, the two stockholders of the Palms Broadcasting Corporation (Robert A. Oliver and David R. Millan) each owning 50 percent of the issued and outstanding stock, abandoned Station WGRC, Green Cove Springs, Florida, with no intention of returning, leaving the management, operation and control to Frank Van Hobbs, a preferred creditor of the licensee corporation; and

It further appearing, that without any authority from the Commission so to do, Frank Van Hobbs assumed complete operation and control of said station on or about February 1, 1961; and

It further appearing, that even though Frank Van Hobbs was notified, in person, by a staff member of the Commission on October 16, October 27, and November 28, 1961, of such unauthorized operation, he still persisted in same until December 18, 1961, as of which date, the Commission has been advised, the station ceased operation for financial reasons; and

It further appearing, that said unauthorized operation and control of Station WGRC by Frank Van Hobbs was a willful and repeated violation of section 310(b) of the Communications Act of 1934, as amended;

It is ordered, This 14th day of February 1962, that pursuant to sections 312 (b) and 312(c) of the Communications Act of 1934, as amended, Frank Van Hobbs is directed to show cause why an order to cease and desist from further violating the provisions of section 310(b) of the Communications Act of 1934, as amended, should not be issued, and to appear and give evidence with respect thereto at a hearing [2] to be held in the Commission's offices at Washington, D.C., at a time to be specified by a subsequent order, said time in no event to be less than 30 days after receipt of this order; and

It is further ordered, That the hearing ordered herein shall be consolidated for hearing with the hearing ordered in the Matter of Revocation of License of Palms Broadcasting Corporation for AM Station WGRC, Docket No. 14529; and

It is further ordered, That the Acting Secretary of the Commission send a copy of this order by certified mail—return receipt requested, to Mr. Frank Van Hobbs at his last known address.

Released: February 20, 1962.

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

[F.R. Doc. 62–1949; Filed, Feb. 26, 1962; 8:51 a.m.]

[2] Section 312(c) of the Communications Act of 1934, as amended, and § 1.77(c) of the Commission's rules provide that a licensee, permittee or person in order to avail itself of the opportunity to be heard shall, in person or by its attorney, file with the Commission within thirty days of the receipt of the order to show cause, a written statement stating that it will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee, permittee or person fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. See § 1.78(a) of the Commission's rules as amended December 12, 1960. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. See § 1.78(b) of the Commission's rules as amended December 12, 1960. In the event the right to a hearing is waived, the Chief Hearing Examiner will terminate the hearing proceeding and certify the case to the Commission. Thereupon the matter will be determined by the Commission in the regular course of business and an appropriate order will be entered. See § 1.78 (c), (d), and (e) of the Commission's rules as amended December 12, 1960.

[Docket No. 14533]

EUGENE R. PLUMMER

Order To Show Cause

In the matter of Eugene R. Plummer, Neptune New Jersey, Docket No. 14533; order to show cause why there should not be revoked the license for Radio Station 2W4888 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of Title 18, United States Code, section 1464, and the Commission's rules, in the operation of the captioned radio station;

It appearing, that, at various times during April 1961, the licensee participated in a scheme to conceal from detection by the Commission the identity of certain persons engaged in the operation of Citizens radio stations in the general vicinity of Asbury Park, New Jersey, by the use of call signs not assigned by the Commission to the stations being operated by such persons; and

It further appearing, that, by the licensee's participation in the above-mentioned scheme, and in the operation of his radio station, he has evidenced a predisposition to disregard the rules and regulations of the Commission and to cooperate with others in violation thereof; and

It further appearing, that, had the Commission, at the time of the grant of the license for Citizens Radio Station 2W4888, been aware of the licensee's above-mentioned predisposition, it would have been warranted in refusing the grant of a license to such licensee and would have refused to grant a license to such licensee; and

It further appearing, that, at various times during April 1961, the licensee used a call sign or signal which had not been assigned by proper authority to the station being operated, in violation of § 19.83 of the Commission's rules; and

It further appearing, that, on or about April 21, 1961, the above-mentioned Citizens radio station was used for the utterance of indecent language in violation of Title 18, United States Code, section 1464; and

It further appearing, that, at various times between April 15, 1961, and July 15, 1961, and particularly on April 21, 1961, and July 14, 1961, the licensee failed to restrict communications between Citizens Radio Station 2W4888 and units of other Citizens radio stations to five consecutive minutes, in violation of § 19.61(f) of the Commission's rules; and

It further appearing, that, at various times between April 15, 1961, and July 15, 1961, and particularly on April 21, 1961 and May 13, 1961, the transmissions of Citizens Radio Station 2W4888 were not addressed to specific persons or stations within the direct groundwave coverage range of such station and were designed to elicit responses from random or unknown stations, in violation of § 19.61(g) of the Commission's rules; and

It further appearing, that, at various times between April 15, 1961, and July 15, 1961, and particularly on April 21, 1961, May 13, 1961, and July 14, 1961, the call sign of Citizens Radio Station 2W4888 was not transmitted at the beginning and termination of communications, in violation of § 19.62 of the Commission's rules; and

It further appearing, that, at various times between April 15, 1961, and July 15, 1961, and particularly on May 13, 1961, the above-named licensee transferred, assigned or disposed of the operating authority under his station license, in violation of section 310(b) of the Communications Act of 1934, as amended, and § 19.92 of the Commission's rules; and

It further appearing, that the licensee has sought to conceal such transfer, assignment or disposition from the Commission and has denied that it took place; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated §§ 19.83, 19.61(f), 19.61(g), and 19.62 of the Commission's rules; and

It further appearing, that in view of the foregoing, the licensee has wilfully violated § 19.92 of the Commission's rules and Title 18, United States Code, section 1464;

It is ordered, This 19th day of February 1962, pursuant to section 312(a) (2), (4), and (6), and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority that the said licensee show cause why the license for the captioned radio station should not be revoked and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Acting Secretary send a copy of this order by certified mail—return receipt requested to the said licensee at 325 Highland Avenue, Neptune, New Jersey.

Released: February 21, 1962.

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

[F.R. Doc. 62-1950; Filed, Feb. 26, 1962; 8:51 a.m.]

FEDERAL MARITIME COMMISSION

COMMONWEALTH STEAMSHIP, INC., ET AL.

Notice of Agreement Filed for Approval

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

Agreement numbered 8745 is an arrangement between Commonwealth Steamship, Inc., A. H. Bull Steamship Co., Bull Lines, Inc., A. H. Bull & Co., Waterman Steamship Corporation of Puerto Rico, and Sea-Land Equipment, Inc. covering the purchase by Waterman Steamship Corporation of Puerto Rico from Commonwealth Steamship Inc., a subsidiary of A. H. Bull Steamship Co., of the "Alicia" and the "Dorothy" both partially containerized C4-3-B2 type vessel, and the assumption by Waterman Steamship Corporation of Puerto Rico of a lease agreement covering containers to be used on said vessels.

Agreement numbered 8745 also stipulates that A. H. Bull Steamship Co., Inc., will:

(1) Take all steps and acts necessary or advisable for dismissal with prejudice of all and any suits pending in which McLean Industries, Inc., Sea-Land Service, Inc., or Waterman Steamship Corporation of Puerto Rico is a defendant;

(2) Not prevent or delay consummation of a plan of rearrangement heretofore filed by Waterman Steamship Corporation with the Maritime Subsidy Board or any other plan for the separation of Waterman Steamship Corporation from McLean Industries, Inc., and Sea-Land Service, Inc.;

(3) Not prevent or delay the entering into by Waterman Steamship Corporation of the operating differential subsidy contract or the payment to Waterman Steamship Corporation by the United States of an operation differential subsidy;

(4) Not recover damages from McLean Industries, Inc., or any of its subsidiaries, associates or affiliates by reason of any alleged violation of the Anti-trust Laws; or

(5) Not prevent the payment, transfer or delivery to, or restrict the use of, any money or property of whatsoever kind or character received by McLean Industries, Inc., or any of its subsidiaries under any such plan for the separation of Waterman Steamship Corporation from McLean Industries, Inc., and Sea-Land Service, Inc.

The Commission will consider whether this agreement or any part thereof is subject to section 15, Shipping Act, 1916, as amended, and if so whether it should be approved under the Standards of that section.

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

Dated: February 23, 1962.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 62-1989; Filed, Feb. 26, 1962; 9:31 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP62-43]

ATLANTIC SEABOARD CORP.

Notice of Date of Hearing

FEBRUARY 19, 1962.

Take notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 12, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application in Docket No. CP62-43: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Notice of filing of the subject application was published in the FEDERAL REGISTER on January 5, 1962 (27 F.R. 132).

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-1891; Filed, Feb. 26, 1962; 8:45 a.m.]

[Docket No. CP61-263 etc.]

CITIES SERVICE GAS CO. ET AL.

Notice of Application, Consolidation, and Date of Hearing

FEBRUARY 20, 1962.

Cities Service Gas Company et al., Docket No. CP61-263 etc.; and Sondau Oil & Gas Company, Inc., et al., Docket No. CI62-938.

Take notice that on February 13, 1962, Sondau Oil and Gas Company, Inc., et al. (Applicant), 303 South Main, Wichita, Kansas, filed in Docket No. CI62-938 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas produced in the Ringwood Field, Major County, Oklahoma, to Oklahoma Natural Gas Gathering Corporation (Oklahoma Natural) and Warren Petroleum Corporation (Warren) pursuant to a gas purchase contract dated May 29, 1961, between Applicant as seller and Oklahoma Natural and Warren as joint buyers, which contract was filed concurrently with the subject application. The proposed price under this contract is 11.0 cents at 14.65 psia. The application is on file with the Commission and open to public inspection.

This related matter should be heard on a consolidated record with the proceeding designated as Docket Nos. CP61-263, et al. now set for hearing on March 22, 1962, and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 22, 1962, at 9:30 a.m. e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application in Docket No. CI62-938 together with the matters involved in and the issues presented by the applications in Docket Nos. CP61-263, et al. already set for hearing at the time and place aforesaid: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 12, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-1892; Filed, Feb. 26, 1962; 8:45 a.m.]

[Docket No. CP62-154]

EL PASO NATURAL GAS CO.

Notice of Application and Date of Hearing

FEBRUARY 19, 1962.

Take notice that on December 29, 1961, El Paso Natural Gas Company (El Paso), a Delaware corporation with mailing address at P.O. Box 1492, El Paso, Texas, filed an application for a certificate of public convenience and necessity in the above-captioned proceeding, pursuant to section 7(c) of the Natural Gas Act, authorizing El Paso to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

El Paso seeks authority, during the limited term extending from January 1, 1962, and continuing through December 31, 1962, to sell and deliver up to an additional 25,700,000 Mcf of natural gas at 14.9 psia to Southern California Gas Company and Southern Counties Gas Company of California (Southern) on an interruptible, best efforts basis, at the existing points of delivery to that customer located near Blythe, California, and Topock, Arizona. The proposal contemplates interim deliveries of gas to Southern during the foregoing period so long as the proceedings at Docket Nos. G-16235, et al. are not terminated by reason other than issuance of certificates in form and substance satisfactory to Southern and to the applicants therein. If such proceedings are terminated for any reason other than issuance of satisfactory certificates, the performance contemplated by the application during the limited term would terminate upon notice given by either El Paso or Southern to the other. Said quantities of gas to be provided are in addition to the volumes of gas which El Paso is certificated to deliver to Southern and are to be provided from El Paso's existing sources of gas supply by use of its certificated pipeline facilities only after meeting the priority requirements of its customers served throughout its pipeline system. No additional pipeline facilities are proposed or required to be constructed by El Paso to enable it to render the proposed natural gas service. The sale and delivery of such gas is to be performed by El Paso in accordance with a Service Agreement dated December 12, 1961, between El Paso and Southern and at rates contained in El Paso's proposed Rate Schedule G-X-2 of its FPC Gas Tariff, Original Volume No. 1.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 3, 1962, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. concerning the matters involved in and the issues presented by such application.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 15, 1962.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-1893; Filed, Feb. 26, 1962; 8:45 a.m.]

[Docket No. CP61-30]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Motion for Amendment of Certificate Authorization

FEBRUARY 19, 1962.

Take notice that on November 20, 1961, Natural Gas Pipeline Company of America (Natural) filed a motion to amend the Commission's order of July 11, 1961, in Docket No. CP61-30, issuing a certificate of public convenience and necessity authorizing Movant to construct and operate facilities to increase the daily design sales capacity of its pipeline by 105,000 Mcf (on a billing basis of 1,000 Btu per cubic foot of gas).

The requested amendment would authorize the sale and delivery by Natural of an additional daily contract quantity of 5,400 Mcf of natural gas to Iowa Electric Light and Power Company (Iowa Electric) and an additional daily contract quantity of 19,000 Mcf of natural gas to Northern Indiana Public Service Company (Northern Indiana). These volumes would be in lieu of those authorized, i.e., zero volumes to Iowa Electric and 15,000 Mcf to Northern Indiana. The additional volumes of gas are to be made available, in part, from the expanded system capacity authorized in the above-entitled docket; and, in minor part (270 Mcf), from facilities authorized in Docket No. CP61-185. Both Iowa Electric and Northern Indiana are existing customers of Natural.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 14, 1962.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-1894; Filed, Feb. 26, 1962; 8:45 a.m.]

[Docket No. CP62-135]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application and Date of Hearing

FEBRUARY 19, 1962.

Take notice that on November 29, 1961, as supplemented on January 15, 1962, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois, filed in Docket No. CP62-135 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities in Will County, Illinois, to deliver and sell natural gas to Northern Illinois Gas Company (Northern Illinois) for resale and distribution in the Village of Minooka, Illinois, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

Natural seeks authorization to construct and operate a side tap connection on its authorized and existing main transmission pipeline, approximately 150 feet of 3-inch lateral pipeline extending from said tap to the facilities of Northern Illinois, and a meter station located at the terminus of the proposed lateral line, all within Will County, Illinois. Northern Illinois estimates the cost of the proposed facilities to be $11,710, which would be financed from funds on hand.

The application states that Northern Illinois has received a 50-year franchise from the Village of Minooka and a certificate of public convenience and necessity from the Illinois Commerce Commission to render the proposed distribution service. The proposed service by Natural to Northern Illinois would be rendered from presently authorized volumes available to Northern Illinois.

The estimated market requirements for the Village of Minooka for the first and third years of service are as follows:

[In thousand cubic feet]

	First year	Third year
Annual	20,200	27,800
Peak day	198	287

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 27, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 16, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefore is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-1895; Filed, Feb. 26, 1962; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 600]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 21, 1962.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 64598. By order of February 16, 1962, the Transfer Board approved the transfer to Lyall E. Gage, Villisca, Iowa, of Certificate No. MC 71777, issued July 11, 1951, to Claude Spring, doing business as Claude Spring Trucking, Corning, Iowa, authorizing the transportation, over regular routes, between Corning, Iowa, and Omaha, Nebr., and St. Joseph, Mo., of livestock and feed, building materials, and farm products, from and to specified points, varying with the commodities transported.

No. MC-FC 64681. By order of February 19, 1962, the Transfer Board approved the transfer to Citizens Transportation Co., of Riverside, a corporation, Riverside, Calif., of Certificates Nos. MC 8758 and MC 8758 Sub-1, issued April 12, 1949, and February 11, 1954, respectively, to John E. Cote, doing business as Citizen's Transportation Company, Riverside, Calif., of citrus fruits, from Riverside, Calif., to Anaheim, Calif., and points and places within 15 miles of Anaheim, from Riverside, Calif., and points within 20 miles of Riverside, and Anaheim, Calif., and points within 15 miles of Anaheim, to Los Angeles, Calif., from Riverside, Calif., and points within 10 miles of Riverside, to Long Beach, Calif., fertilizer, from Los Angeles Harbor and Long Beach, Calif., to specified points in California, coke, cast iron pipe, and newsprint, from Los Angeles Harbor and Long Beach, Calif., to Riverside, Calif., citrus fruits, nails and car strips, between Riverside, Calif., and points within 50 miles of Riverside, and cement, over irregular routes, from Crestmore and Colton, Calif., to points in the Los Angeles Harbor, Calif., Commercial Zone as defined by the Commission, restricted to traffic moving to the territories or possessions of the United States. Theodore W. Russell, 1010 Wilshire Boulevard, Los Angeles 17, Calif., attorney for applicants.

No. MC-FC 64729. By order of February 16, 1962, the Transfer Board approved the transfer to Edward C. Eichler, doing business as Eichler Transfer, Sturgis, Mich., of Certificates in Nos. MC 60082 and MC 60082 Sub-4, issued June 13, 1955, and July 18, 1955, respectively, to Edward C. Eichler and Pearl E. Eichler, a partnership, doing business as Eichler Transfer, Sturgis, Mich., authorizing the transportation of: Fresh meats, eggs, poultry, products of food-processing and meatpacking houses, packinghouse products, and byproducts, advertising matter incidental to the sale and distribution of such commodities, refused or unclaimed shipments of such commodities, household goods, and general commodities, with the usual exceptions including household goods and commodities in bulk, from, to, or between specified points in Michigan, Ohio, Illinois, Indiana, Missouri, New Jersey, New York, West Virginia and Pennsylvania. J. C. Schriner, 5275 Ridge Road, Cleveland 29, Ohio, representative for applicants.

No. MC-FC 64738. By order of February 16, 1962, the Transfer Board approved the transfer to Sam Lowenstein and Stanley Lowenstein, a partnership, doing business as Super M Foods Delivery, New York, N.Y., of Permit No. MC 7832, issued August 18, 1958, to Super M Foods Delivery, Inc., New York, N.Y., authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith equipment, materials, and supplies used in the conduct of such business, between points within a specified territory in New York, Connecticut, and New Jersey. Charles H. Trayford, 220 East 42d Street, New York, N.Y., representative for applicants.

No. MC-FC 64755. By order of February 16, 1962, the Transfer Board approved the transfer to Robert M. Sullivan, Springfield, Mass., of Certificate No. MC 2066, issued September 13, 1949, to Clark's Express Company, a corporation, Spencer, Mass., authorizing the transportation of: general commodities, with the usual exceptions including household goods and commodities in bulk, between specified points in Massachusetts, and between specified points in Massachusetts, on the one hand, and, on the other, points in New Hampshire, Rhode Island, and Connecticut. Arthur M. Marshall, 145 State

Street, Springfield 3, Mass., attorney for applicants.

No. MC–FC 64758. By order of February 16, 1962, the Transfer Board approved the transfer to James O. Schueman, Gerald L. Schueman, and John H. Schueman, a partnership, doing business as Schueman Brothers, Avoca, Iowa, of Certificate No. MC 47085, issued November 21, 1955, to James O. Schueman, Gerald L. Schueman, and Grace Schueman, a partnership, doing business as Schueman Brothers, Avoca, Iowa, authorizing the transportation of: Livestock, from Avoca, Iowa, and points within 10 miles thereof, to South Omaha, Nebr.; from Walnut, Iowa, and points within 15 miles thereof, to Omaha, Nebr.; feeder stock and livestock feed, from Omaha and South Omaha, Nebr., to Avoca, Iowa, and points within 10 miles thereof; coal, feed, livestock, furniture, and building materials, from Omaha, Nebr., to Walnut, Iowa, and points within 15 miles thereof; petroleum products, in containers, between Avoca, Iowa, and points within 10 miles thereof, on the one hand, and, on the other, Omaha, Nebr.; livestock, feed, grain, seeds, agricultural implements and parts, and lumber, between Avoca, Iowa, and points within 15 miles thereof, on the one hand, and, on the other, Omaha, Nebr.; household goods and emigrant movables, between Avoca, Iowa, and points in Iowa within 15 miles of Avoca, on the one hand, and, on the other, points in Nebraska.

No. MC–FC 64778. By order of February 16, 1962, the Transfer Board approved the transfer to Thomas Avino, Frank Avino, Joseph Avino, and Patrick Avino, a partnership, doing business as Avino Bros., New York, N.Y., of a portion of Certificate No. MC 11685, issued December 6, 1951, to Crest Haulage, Inc., New York, N.Y., authorizing the transportation of: Printed matter (not including newspapers and periodicals), printers' materials and supplies, and stationery, over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J. William D. Traub, 350 Fifth Avenue, New York 1, N.Y., registered practitioner for applicants.

No. MC–FC 64794. By order of February 15, 1962, the Transfer Board approved the transfer to Charles Ihrig & Son, Inc., Buffalo, N.Y., of Certificate No. MC 21416, issued October 26, 1954, to Norman Ihrig and Melvin Ihrig, a partnership, doing business as Chas. Ihrig & Son, authorizing the transportation of household goods over irregular routes, between Buffalo, N.Y., and points within 10 miles of Buffalo, on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and the District of Columbia. Floyd B. Piper, 604 Crosby Building, Buffalo 2, N.Y., representative for applicants.

No. MC–FC 64796. By order of February 15, 1962, the Transfer Board approved the transfer to Sherry and Medeiros Corporation, Fall River, Mass., of Certificate No. MC 100381, issued July 14, 1950, to Manuel Angelo and Peter Angelo, a partnership, doing business as M. Angelo & Son, Fall River, Mass., authorizing the transportation over irregular routes of granite, for building purposes, from Providence, R.I., to points in Connecticut on and east of Connecticut Highway 10 and those in Massachusetts on and east of Massachusetts Highway 10, with no transportation for compensation on return, except as otherwise authorized herein; and sand, gravel, stone, roadbuilding machinery, between points in Rhode Island and those in Massachusetts within 20 miles of the Rhode Island-Massachusetts State line. William F. Long, Jr., 225 Academy Building, Fall River, Mass., attorney for applicants.

No. MC–FC 64803. By order of February 16, 1962, the Transfer Board approved the transfer to Paul E. Wilhelmy, Omaha, Nebr., of Certificate No. MC 11592, issued April 13, 1944, to E. E. Haugarth, Omaha, Nebr., authorizing the transportation of: Fresh meat, packinghouse products, dairy products, canned goods, and supplies incidental to, or used in, the operation and maintenance of meat packing plants between Chicago, Ill., and Omaha, Nebr.; and farm machinery and parts, and binder twine, from Chicago, Ill., to Omaha and Lincoln, Nebr. Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr., attorney for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 62–1910; Filed, Feb. 26, 1962; 8:47 a.m.]

OFFICE OF EMERGENCY PLANNING

DIRECTOR OF TELECOMMUNICATIONS MANAGEMENT

Delegation of Authority

1. The Director of Telecommunications Management is hereby delegated the functions and authorities vested in me by Executive Order 10995 of February 16, 1962.

2. This delgation shall be effective on and after the date of the Executive order hereinabove referred to.

EDWARD A. McDERMOTT,
Acting Director.

Approved: February 16, 1962.

JOHN F. KENNEDY,
The White House.

[F.R. Doc. 62–1887; Filed, Feb. 26, 1962; 8:45 a.m.]

DIRECTOR OF TELECOMMUNICATIONS MANAGEMENT

Delegation of Authority

1. By authority of Executive Order 10995 of February 16, 1962, the Director of Telecommunications Management is hereby delegated the functions and authorities vested in me by Executive Order 10705 of April 17, 1957.

2. This delegation shall be effective on and after the date of Executive Order 10995.

EDWARD A. McDERMOTT,
Acting Director.

[F.R. Doc. 62–1888; Filed, Feb. 26, 1962; 8:45 a.m.]

INTERDEPARTMENT RADIO ADVISORY COMMITTEE

Delegation of Authority

1. By authority of Executive Order 10995 of February 16, 1962, pending the appointment and qualification of the Director of Telecommunications Management and action by him in the premises, the Interdepartment Radio Advisory Committee will report to the Director of Telecommunications, Office of Emergency Planning, and is hereby authorized, subject to his approval, to assign frequencies to Government radio stations and classes of stations on an interim basis.

2. This order and delegation shall take effect as of February 16, 1962.

EDWARD A. McDERMOTT,
Acting Director.

[F.R. Doc. 62–1889; Filed, Feb. 26, 1962; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D–2534]

ALLIED METALS CO.

Notice and Order for Hearing

FEBRUARY 20, 1962.

I. Allied Metals Company (issuer), 3520 Broadway SE., Albuquerque, New Mexico, a New Mexico corporation, filed with this Commission on September 11, 1961, a notification on Form 1–A and an offering circular relating to an offering of 100,000 shares of its $1 par value nonassessable Class A common stock at an offering price of $1 per share, which was amended down to 50,000 shares for an aggregate of $50,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder; and

II. The Commission on February 1, 1962, issued an order pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, which temporarily suspended the issuer's exemption under Regulation A and afforded to any person having any interest therein an opportunity to request a hearing. A written request for a hearing has been received by the Commission.

The Commission deems it necessary and appropriate that a hearing be held for the purpose of determining whether it should vacate the temporary suspension order or enter an order of permanent suspension in this matter.

It is hereby ordered, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that a hearing be held at 10:00 a.m., m.s.t., on March 12, 1962, at the Denver Regional Office of the Commission, 802 Midland Savings Building, 444 17th Street, Denver 2, Colorado, with respect to the following matters and questions, without prejudice, however, to the specification of additional issues which may be presented in these proceedings:

A. Whether the issuer has complied with the terms and conditions of Regulation A in that:

1. The notification fails to disclose the affiliates and predecessors of the issuer as required by Item 2 of Form 1–A.

2. The issuer falsely states in its notification, in responding to Item 6 of Form 1–A, that none of its directors, officers or others were subject to any order, judgment, or decree specified in subparagraph 2, paragraph (d) of Rule 252;

B. Whether the Regulation A exemption is available to the issuer in that Clifford G. Taylor, an officer and director of the issuer, is subject to a decree of permanent injunction of the character specified in subparagraph (2) of paragraph (d) of Rule 252.

C. Whether the offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to disclose accurately and adequately the speculative and adverse features of the offering and risks attendant to the proposed business enterprise.

2. The failure to disclose whether there has been adequately controlled laboratory testing of the product Ber–Al and the process by which it is formed to determine the practicalities of the product's uses, the failure to disclose accurately and adequately the stage of research and development, and the failure to define the principal market for the product.

3. The failure to disclose whether the process of metallurgy proposed to be exploited has been subject to patent search.

4. The failure to disclose accurately and adequately the proposed use of proceeds, particularly in connection with the remuneration of officers and directors.

5. The failure to disclose that the shareholders' right to transfer stock of the corporation is subject to the corporation's option to purchase at par value such stock from the record owners within 30 days after written notice of transfer is filed with the company.

6. The failure to disclose accurately and adequately the background of officers and directors.

7. The failure to disclose the percentage of outstanding securities of the issuer to be held by directors, officers and promoters as a group and the percentage of such securities which will be held by the public if all securities to be offered are sold and the respective amounts of cash paid therefor by such group and by the public.

8. The failure to file appropriate financial statements.

D. Whether the offering if made would be in violation of Section 17(a) of the Securities Act of 1933, as amended.

III. *It is further ordered,* That Sidney L. Feiler, or any officer or officers of the Commission designated by it for that purpose, shall preside at the hearing; that any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all the powers granted to the Commission under sections 19(b), 21, and 22(c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail to Allied Metals Company, that notice of the entering of this order shall be given to all other persons by a general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard, or otherwise wishes to participate in the hearing, shall file with the Secretary of the Commission on or before March 9, 1962, a written request relative thereto as provided in Rule 9(c) of the Commission's rules of practice.

By the Commission.

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

[F.R. Doc. 62–1899; Filed, Feb. 26, 1962; 8:46 a.m.]

[File No. 24FW–1271]

HE.LEUM CO., INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

FEBRUARY 20, 1962.

I. He.Leum Co., Inc. (issuer), 8900 North Central Avenue, Phoenix, Arizona, organized in Arizona on October 11, 1961, filed with the Commission on November 9, 1961, a notification on Form 1–A and an offering circular relating to a proposed public offering of 2,400,000 shares of its $0.10 par value common voting stock in units of 100 shares at $12.50 per unit for an aggregate of $300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that:

1. The notification filed does not name certain affiliates as required by Item 2(b) of Form 1–A.

2. In response to Item 9(a) of the notification, issuer has set forth an arbitrary valuation of $240,000 which is based upon an appraised valuation, assigned to certain properties and services received by it in exchange for shares of its stock.

3. The issuer has failed to furnish appropriate responses and attach pertinent exhibits to the notification as required by Item 11 of Form 1–A and the subsections thereof.

4. Issuer has failed to include in its offering circular a statement of financial condition meeting the requirements prescribed by Item 11(a) of Schedule I relating to the form and content of financial statements.

B. Regulation A is unavailable to the issuer in that the aggregate amount of the securities proposed to be offered to the public, computed in accordance with Rules 253 and 254, exceeds $300,000.

C. The offering circular contains untrue statements of material facts and omits to state facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, particularly with respect to:

1. The failure to describe clearly and adequately the plan of distribution and the manner in which the shares will be offered and sold.

2. The failure to disclose clearly and adequately the expenses of the offering.

3. The failure to include a map drawn to scale showing location of issuer's acreage and nearby acreage, together with the location and present status of all holes drilled for oil and gas within the area and the respective dates they were drilled and the respective depths thereof.

4. The failure to include the past production history of all wells which ever produced oil on the acreage owned by issuer.

5. The failure to include a reliable estimation of profitably recoverable reserves from the properties involved.

6. The failure to include any discussion of the hazards involved in the issuer's proposed operation.

7. The failure to include any discussion of the effect on the prospective new investors if materially less than the total amount of stock offered is sold.

8. The representation with respect to core analyses showing gross oil in place as "estimated future reserves net to the company's interest in the properties."

9. The representation that the core analyses were for three rather than two wells.

10. The extension of dollar amounts in the financial statements, for other than cash transactions, on the basis of an estimated or appraised valuation for assets in excess of identifiable cash cost of such assets to promoters.

D. The offering would be made in violation of section 17(a) of the Securities Act of 1933, as amended.

III. *It is ordered,* Pursuant to Rule 261 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining

whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

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

[F.R. Doc. 62-1900; Filed, Feb. 26, 1962; 8:46 a.m.]

[File Nos. 59-105, 54-228]

PENNSYLVANIA GAS CO. AND NATIONAL FUEL GAS CO.

Order Directing Elimination of Publicly Held Minority Stock Interest and Order Approving Plan

FEBRUARY 19, 1962.

In the Matter of Pennsylvania Gas Company and National Fuel Gas Company, File No 59-105; and National Fuel Gas Company, File No. 54-228.

The Commission having by notice and order dated July 22, 1960, instituted proceedings under section 11(b)(2) of the Public Utility Holding Company Act of 1935 ("Act") with respect to National Fuel Gas Company ("National"), a registered holding company, and its subsidiary company, Pennsylvania Gas Company ("Penn"), and having consolidated with such proceedings a proceeding with respect to a plan, as amended, ("plan") filed by National pursuant to section 11(e) of the Act for the purpose of eliminating the publicly held common stock interest in Penn;

National having requested that, if the Commission approves the section 11(e) plan, the Commission's order contain the findings and recitals necessary to meet the requirements of sections 1081 and 4382 of the Internal Revenue Code of 1954, as amended, and any other sections thereof providing exemptions or benefits with respect to transactions proposed in the plan.

National having requested the Commission, pursuant to section 11(e) of the Act, to apply to an appropriate United States District Court to enforce and carry out the terms and provisions of the plan;

A public hearing having been held, after appropriate notice, at which all interested persons were afforded an opportunity to be heard; and

The Commission having considered the entire record and having this day filed its findings and opinion, on the basis of such findings and opinion

It is ordered, That, pursuant to section 11(b)(2) of the Act, National and Penn be, and each hereby is, directed to take appropriate action to effect the elimination of the publicly held stock interest in Penn.

It is further ordered, Pursuant to section 11(e) of the Act, that the plan filed by National be, and it hereby is, approved, subject to the terms and conditions contained in Rule 24 promulgated under the Act and to the following additional terms and conditions:

(1) This order shall not be operative to authorize any transaction proposed in the plan until an appropriate United States District Court shall, upon application thereto, enter an order approving and enforcing the plan;

(2) Only such fees and expenses in connection with the plan, and the proceedings incidental thereto, as the Commission may approve on appropriate application made to it, shall be paid by National and Penn; jurisdiction being reserved to determine the reasonableness of all such fees and expenses and all other remunerations incurred or to be incurred by National and Penn in connection with the Plan, the transactions incident thereto and all proceedings on or related thereto; and

(3) Jurisdiction is reserved with respect to the entering of such further orders and the taking of such further action as the Commission may deem necessary or appropriate to effectuate the requirements of section 11(b) of the Act.

It is further ordered, That all steps and transactions involved in the consummation of the plan, including particularly the issuances, transfers, exchanges, distributions, and expenditures hereinafter described and hereinafter set forth are necessary or appropriate to effect a simplification of the National holding company system and are necessary or appropriate to effectuate the provisions of section 11(b) of the Act and are hereby authorized, approved and directed; the shares of stock which are ordered to be issued, exchanged, acquired, transferred and received are specified and itemized as follows:

National will issue and deliver 53,651 common shares of National to Penn stockholders at the rate of 1.45 common shares of National for 1 common share of Penn and in exchange therefor such Penn stockholders will transfer and deliver to National their certificates for Penn common stock aggregating 37,001 shares.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 62-1901; Filed, Feb. 26, 1962; 8:46 a.m.]

[File No. 812-1478]

TOWNSEND CORPORATION OF AMERICA

Notice of Filing of Application

FEBRUARY 15, 1962.

Notice is hereby given that Townsend Corporation of America ("TCA"), 38 Chatham Road, Short Hills, New Jersey, a registered closed end, nondiversified investment company, has filed an application for an order under section 17(b) and section 23(c)(3) of the Investment Company Act of 1940 ("Act") with respect to a proposed transaction whereby it will, pursuant to an agreement, exchange all of its interests in Princessville Research Park Corporation ("Park") and Princeton Pike Corporation ("Pike") for 68,316 shares of TCA common stock held by two individuals ("sellers") who had previously sold TCA its interests in Park and Pike. All interested persons are referred to the application on file with the Commission and summarized below for a complete statement thereof.

TCA owns 80 percent of Park and 100 percent of Pike. The assets of both corporations consist almost solely of unimproved real estate. The stock of Park and Pike was acquired pursuant to an agreement dated May 9, 1960 ("Purchase Agreement"), which provided that the purchase price for the Park and Pike stock would be paid in TCA stock and would be based on the net value of the assets of Park and Pike, the real property being valued at $3,500 per acre and the number of acres being determined by a survey. The TCA stock was valued for this purpose at $12 per share, although the market value was substantially lower. The net value of Park and Pike determined as provided in the Purchase Agreement was tentatively computed at $900,869.08 and, on the basis of the $12 per share valuation set by the Purchase Agreement, the number of shares of common stock of TCA issuable aggregated 75,072 shares. 68,316 shares were delivered by TCA in 1960 and the balance of 6,756 shares was to be delivered in 1961.

The Purchase Agreement further provided that if the highest of—

(i) The net asset value per share of common stock of TCA on the date of the Purchase Agreement (May 9, 1960);

(ii) The net asset value per share of common stock of TCA on the date one year from the date of the closing (June 6, 1961); or

(iii) The market value per share of common stock of TCA on the date of the closing (June 6, 1961)—were less than $12, the number of shares of common stock of TCA deliverable under the Purchase Agreement would be recomputed using the highest of such three values in place of the $12 value assigned to such stock by the Purchase Agreement. The net asset values on May 9, 1960 and June 6, 1961, are not precisely ascertainable, but based on the market quotation of $3.00 per share for common stock of TCA on June 30, 1961, the number of additional shares which might have been deliverable pursuant to this term of the Purchase Agreement would be 226,431 shares. TCA's financial statements as of June 30, 1961, reflect a net asset value per TCA share as of June 30, 1961, of $1.19 after giving effect to certain contingent liabilities, among them the possible issuance of said 226,431 shares, and TCA's financial statements as of June 30, 1960, included in its semiannual report to stockholders reflect a net asset value per TCA share of $1.75, after contingencies.

A letter agreement entered into subsequent to the execution of the Purchase Agreement provided that under no circumstances should the Purchase Agreement be construed to require TCA to issue shares at less than their net asset value.

TCA registered as an investment company pursuant to the Act on June 19, 1960. On April 24, 1961, this Commission commenced an action against TCA in the United States District Court for the District of New Jersey ("Court") seeking injunctive relief with respect to alleged violations of, and seeking to enforce compliance with, certain sections of the Act. TCA consented to the entry of a final decree enjoining certain violations of the Act, specifying the procedure required for compliance with the Act, and appointing an interim board of directors ("Interim Board").

The application states that at the request of the Interim Board of Directors an appraisal was made in August 1961 of the real property held by Park and Pike which indicated an average per acre value substantially less than the $3,500 per acre value employed in the Purchase Agreement in the determination of the purchase price.

The application further states that after extensive negotiations, the representative of the sellers of the Park and Pike stock agreed to rescind the transaction. The Interim Board, after careful consideration, decided that the interests of TCA and its stockholders would best be served by rescinding the contract and recovering for TCA the stock it had issued for the Park and Pike stock and its subsequent investment in Park of approximately $91,000. TCA and such sellers entered into an agreement dated December 18, 1961 ("the Rescission Agreement"), rescinding the purchase of Park and Pike stock and returning the parties to their original positions. The Rescission Agreement also provides for the eventual repayment to TCA of $91,000 advanced to Park, such repayment to be secured by a pledge of the stock of Park and Pike and a mortgage on the real property held by Park and Pike.

Pursuant to the definition contained in section 2(a)(3) of the Act the sellers are affiliated persons of either or both Park or TCA, and Park and Pike are affiliated persons of TCA. Generally speaking, section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person from purchasing from such registered investment company any security of which the seller is not the issuer unless the Commission by order upon application pursuant to section 17(b) of the Act grants an exemption from section 17(a) of the Act, upon a finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; and that the proposed transaction is consistent with the policy of the investment company concerned, and consistent with the general purposes of the Act.

Section 23(c)(3) of the Act prohibits a registered investment company from purchasing its own securities other than on a securities exchange or pursuant to tenders, except under such circumstances as the Commission may permit by order to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class of securities to be purchased. Since the proposed acquisition by TCA from sellers of the TCA Common Stock does not involve purchase on a securities exchange or pursuant to tenders, such acquisition would be prohibited unless the Commission issues its order permitting it.

The application states that the performance of the Rescission Agreement will benefit all of the holders of shares of common stock of TCA by preventing the possible substantial dilution of their interest in TCA and will eliminate the probability of costly litigation concerning the claim under the Purchase Agreement for additional TCA shares.

Notice is further given that any interested person may, not later than March 5, 1962, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities, and Exchange Commission, Washington 25, D.C. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon TCA. Proof of such service (by affidavit or in case of any attorney-at-law by certificate) should be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 62–1902; Filed, Feb. 26, 1962; 8:46 a.m.]

[File No. 812–1471]

TOWNSEND MANAGEMENT CO.

Notice of Filing of Application

FEBRUARY 15, 1962.

Notice is hereby given that Townsend Management Company ("TMC"), 38 Chatham Road, Short Hills, New Jersey, a registered closed end, nondiversified investment company, has filed an application for an order under section 17(b) and section 23(c)(3) of the Investment Company Act of 1940 ("Act") with respect to a proposed transaction whereby it will exchange all its interest in Fiduciary Counsel, Inc. ("Fiduciary"), a wholly owned subsidiary, for cash of $79,750 and 31,000 shares of its own stock held by a group of individuals ("Buyers"), some of whom are affiliated persons of TMC. All interested persons are referred to the application on file with the Commission and summarized below for a complete statement thereof.

Fiduciary is engaged in the business of acting as an investment adviser for a number of individual clients and is registered as an investment adviser with the Commission. Fiduciary has outstanding 296 shares of capital stock, without par value, all of which 296 shares are owned by TMC. TMC acquired the 296 shares from May 1958 through February 1959, from various individuals, most of whom were officers or executives of Fiduciary.

TMC registered as an investment company pursuant to the Act on June 19, 1960. On April 24, 1961, this Commission commenced an action against TMC in the United States District Court for the District of New Jersey ("Court") seeking injunctive relief with respect to alleged violations of, and seeking to enforce compliance with, certain sections of the Act. TMC consented to the entry of a final decree enjoining certain violations of the Act, specifying the procedure required for compliance with the Act, and appointing an interim board of directors ("Interim Board").

The application states that the Interim Board concluded, after investigation, that it would be in the best interests of TMC and its stockholders for TMC to sell Fiduciary if a fair price could be obtained therefor. The Interim Board was informed by Fiduciary's management that some of Fiduciary's important clients had been disturbed by unfavorable publicity that had attended the Commission's action against Fiduciary's parent, TMC, referred to above, and that the further association of Fiduciary with TMC, notwithstanding the appointment of the Interim Board, might result in the loss of some of Fiduciary's important clients.

Pursuant to the definition contained in section 2(a)(3) of the Act, certain of the Buyers are affiliated persons of either or both Fiduciary or TMC, and Fiduciary is an affiliated person of TMC. Generally speaking, section 17(a) of the Act prohibits an affiliated person (Fiduciary, and some of Buyers) of a registered investment company (TMC), or an affiliated person of such a person (Buyers), from purchasing from such registered company any security (Fiduciary stock) of which the seller (TMC) is not the issuer, unless the Commission by order upon application pursuant to section 17(b) of the Act grants an exemption from section 17(a) of the Act, upon a finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; and that the proposed transaction is consistent with the policy of the investment company concerned, and consistent with the general purposes of the Act.

Section 23(c)(3) of the Act prohibits a registered investment company from purchasing its own securities other than on a securities exchange or pursuant to tenders, except under such circumstances as the Commission may permit by order to insure that such purchases are made

in a manner or on a basis which does not unfairly discriminate against any holders of the class of securities to be purchased. Since the proposed purchase by TMC from Buyers of the 31,000 shares of TMC Common Stock does not involve purchase on a securities exchange or pursuant to tenders, such purchase is prohibited unless the Commission issues its order permitting it.

The application states that the terms of the proposed transaction resulted from arms' length negotiations, and that, for the reasons previously cited, it would not have been possible to sell Fiduciary to other interests on terms as favorable as those reached with Buyers. The application also states that the proposed transaction will realize for TMC's stockholders property that might otherwise not be realized, and will assist and expedite the reorganization of TMC and its affiliated companies in compliance with the consent decree entered by the Court.

Substantially all of the TMC stock to be included in the purchase price of Fiduciary was issued by TMC to acquire Fiduciary, at an assigned value in excess of the value used in computing the number of shares of TMC stock required to effect the present purchase. A value of $7.75 per share was used in computing the 31,000 shares of TMC stock to be included in the purchase price for Fiduciary. This per-share figure was thought to be substantially identical with TMC's net asset value as of June 30, 1961, on the basis of unaudited figures, so that the total purchase price to be paid by Buyers, including the cash portion, was deemed to be $320,000. Subsequent adjustments in the valuation of certain investments resulted in a decrease in TMC's net asset value per share to $7.39. The application states that the difference in the purchase price, or $11,160, is not material to TMC's stockholders in view of the demonstrated difficulty of selling the Fiduciary stock on terms considered favorable by the Interim Board.

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

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 62–1903; Filed, Feb. 26, 1962; 8:46 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

DOROTHEA JAHN

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Dorothea Jahn, Spiegelslustweg 6, Marburg (Lahn), Germany; Claim No. 43031, Vesting Order No. 8704; $330.83 in the Treasury of the United States. One-fifth of all right, title and interest of the issue of Lily Schluechterer Jahn, deceased, in and to the trust created under the will of Sigfried Schluechterer, deceased; The Chase National Bank of New York and Harry H. Neuberger, Co-Trustees, acting under the judicial supervision of the Surrogate's Court, New York County, New York.

Executed at Washington, D.C., on February 19, 1962.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 62–1914; Filed, Feb. 26, 1962; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 362]

WYOMING

Declaration of Disaster Area

Whereas, it has been reported that during the month of February, 1962, because of the effects of certain disasters, damage resulted to residences and business property located in Fremont, Big Horn, and Washakie Counties in the State of Wyoming;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property, situated in the aforesaid Counties and areas adjacent thereto, suffered damage or destruction resulting from flood and accompanying conditions occurring on or about February 11, 1962.

Office: Small Business Administration Regional Office, Railway Exchange Building, 909 17th Street, Denver 2, Colo.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1962.

Dated: February 14, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62–1904; Filed, Feb. 26, 1962; 8:47 a.m.]

[Declaration of Disaster Area 363]

CALIFORNIA

Declaration of Disaster Area

Whereas, it has been reported that during the month of February, 1962, because of the effects of certain disasters, damage resulted to residences and business property located in Los Angeles and Ventura Counties in the State of California;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property, situated in the aforesaid Counties and areas adjacent thereto, suffered damage or destruction resulting from flood and accompanying conditions occurring on or about February 9, 1962.

Office: Small Business Administration Regional Office, Ohrbach Building, Room 1101, 312 East Fifth Street, Los Angeles 13, Calif.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1962.

Dated: February 14, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62–1905; Filed, Feb. 26, 1962; 8:47 a.m.]

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